

# EXHIBIT A

**ELECTRONICALLY FILED**

Superior Court of California,  
County of San Diego

**04/30/2014** at 02:43:26 PM

Clerk of the Superior Court  
By Bernice Orihuela, Deputy Clerk

1 ROBBINS ARROYO LLP  
2 BRIAN J. ROBBINS (SB# 190264)  
3 DIANE E. RICHARD (SB# 204897)  
4 600 B Street, Suite 1900  
5 San Diego, CA 92101  
6 Telephone: (619) 525-3990  
7 Facsimile: (619) 525-3991  
8 brobbins@robbinsarroyo.com  
9 drichard@robbinsarroyo.com

6 THE DENTE LAW FIRM  
7 MATTHEW S. DENTE (SB# 241547)  
8 600 B Street, Suite 1900  
9 San Diego, CA 92101  
10 Telephone: (619) 550-3475  
11 Facsimile: (619) 342-9668  
12 matt@dentelaw.com

10 Attorneys for Plaintiff Tran K. Ly

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 COUNTY OF SAN DIEGO

12 TRAN K. LY, Individually and on Behalf of  
13 Other Members of the Public Similarly  
14 Situated,

14 Plaintiff,

15 v.

16 AT&T MOBILITY SERVICES LLC,  
17 AT&T MOBILITY LLC, and  
18 DOES 1-10, Inclusive,

18 Defendants.

Case No. 37-2014-00013654-CU-OE-CTL

**CLASS ACTION COMPLAINT FOR:**

- (1) **FAILURE TO PAY MINIMUM WAGES;**  
(2) **FAILURE TO PAY OVERTIME WAGES;**  
(3) **FAILURE TO AUTHORIZE AND PERMIT PAID REST PERIODS;**  
(4) **FAILURE TO PROVIDE MEAL PERIODS;**  
(5) **FAILURE TO PAY WAGES TIMELY UPON SEPARATION OF EMPLOYMENT;**  
(6) **FAILURE TO PROVIDE AND MAINTAIN COMPLIANT ITEMIZED WAGE STATEMENTS;**  
(7) **UNFAIR COMPETITION**

**DAMAGES EXCEED \$25,000**

**DEMAND FOR JURY TRIAL**

1 COMES NOW Plaintiff Tran K. Ly ("Plaintiff"), on behalf of herself and as a  
2 representative of employees of AT&T Mobility Services LLC and AT&T Mobility LLC  
3 (collectively, "AT&T Mobility") and Does 1-10, inclusive, (collectively, with AT&T Mobility,  
4 "Defendants") and asserts the following claims:

5 1. This is a class action brought for violations of the California Labor Code  
6 pertaining to the issuance and maintenance of noncompliant itemized wage statements, failure to  
7 pay proper meal and rest premiums at the true regular rate of pay, failure to pay all required  
8 wages for all time worked arising for the time periods employees spend waiting for the issuance  
9 and return of electronic devices (e.g., iPads) and for the time periods employees spend waiting to  
10 be released from work at the end of closing shifts, and for failure to pay all wages due and owing  
11 upon separation of employment.

12 2. On April 30, 2014, Plaintiff filed an exhaustion letter with the California Labor  
13 and Workforce Development Agency providing notice of her intent to bring a private attorneys  
14 general action for recovery of penalties under the California Labor Code Private Attorneys  
15 General Act of 2004, California Labor Code §2698, *et seq.* ("PAGA"). *See Arias v. Superior*  
16 *Court*, 46 Cal. 4th 969 (2009). PAGA permits an "aggrieved employee" to bring a lawsuit for  
17 civil penalties arising from violations of California's Labor Code committed against himself or  
18 herself and other current and former employees. Upon the conclusion of the PAGA exhaustion  
19 period, Plaintiff will amend her Complaint, as permitted by law, to seek penalties for the Labor  
20 Code violations committed against her and Defendants' other current and former California  
21 employees as a private attorney general.

22 3. Plaintiff is, and at all times mentioned in this Complaint was, a resident of San  
23 Diego, California.

24 4. Upon information and belief, defendant AT&T Mobility Services LLC is a  
25 Delaware corporation with principal executive offices in Georgia. AT&T Mobility Services  
26 LLC is currently registered to do business in the state of California and does business in San  
27 Diego, California.

1           5.       Upon information and belief, defendant AT&T Mobility LLC is a Delaware  
2 corporation with principal executive offices in Georgia. AT&T Mobility, LLC is currently  
3 registered to do business in the state of California and does business in San Diego, California.

4           6.       Upon information and belief, defendants AT&T Mobility are employers whose  
5 employees are engaged throughout San Diego County and the state of California.

6           7.       Whenever in this Complaint reference is made to any act, deed, or conduct of  
7 AT&T Mobility, the allegation means that AT&T Mobility engaged in the act, deed, or conduct  
8 by or through one or more of its officers, directors, agents, employees, or representatives, who  
9 was actively engaged in the management, direction, control, or transaction of the ordinary  
10 business and affairs of AT&T Mobility.

11          8.       Plaintiff is ignorant of the true names and capacities, whether individual,  
12 corporate, associate, or otherwise, of the defendants sued herein as Does 1-10, inclusive and  
13 therefore sues said defendants by such fictitious names ("Doe Defendants"). Plaintiff will amend  
14 this Complaint to insert the true names and capacities of the Doe Defendants at such time as the  
15 identities of the Doe Defendants are ascertained.

16          9.       Plaintiff is informed and believes, and thereon alleges, that the Doe Defendants  
17 are the partners, agents, or principals and/or co-conspirators of AT&T Mobility, and of each  
18 other; that AT&T Mobility and the Doe Defendants performed the acts and conduct herein  
19 alleged directly, aided and abetted the performance thereof, or knowingly acquiesced in, ratified,  
20 and accepted the benefits of such acts and conduct, and therefore each of the Doe Defendants is  
21 liable to the extent of the liability of AT&T Mobility as alleged herein.

22          10.      Plaintiff is further informed and believes, and thereon alleges, that at all times  
23 herein material, each defendant was completely dominated and controlled by its co-defendants  
24 and each was the alter ego of the other. Whenever and wherever reference is made in this  
25 Complaint to any conduct by AT&T Mobility or Defendants, such allegations and references  
26 shall also be deemed to mean the conduct of each of the Defendants, acting individually, jointly,  
27 and severally. Whenever and wherever reference is made to individuals who are not named as  
28 defendants in this Complaint, but were employees and/or agents of Defendants, such individuals

1 at all relevant times acted on behalf of Defendants named in this Complaint within the scope of  
2 their respective employments.

3 **CLASS ACTION ALLEGATIONS**

4 11. Plaintiff brings her claim for relief in this action on behalf of herself as well as on  
5 behalf of each and all other persons similarly situated, and thus, seeks class certification under  
6 California Code of Civil Procedure §382.

7 12. All claims alleged herein arise under California law for which Plaintiff seeks  
8 relief as authorized by California law.

9 13. With respect to Plaintiff's First through Seventh Causes of Action, the proposed  
10 Classes and Sub Class are comprised of and defined as:

11 Any and all persons who are or were employees of AT&T Mobility LLC and/or  
12 AT&T Mobility Services LLC in the state of California within one year prior to  
13 the filing of the Complaint in this action until resolution of this lawsuit and who  
received a paystub (hereinafter collectively referred to as the "Pay Stub Class").

14 Any and all persons who are or were non-exempt Retail Sales Consultant  
15 employees, or equivalent positions however titled, of AT&T Mobility LLC  
16 and/or AT&T Mobility Services LLC in the state of California within four years  
prior to the filing of the Complaint in this action until resolution of this lawsuit  
(hereinafter collectively referred to as the "RSC Class").

17 Any and all persons in the RSC Class whose employment was separated at any  
18 time within three years prior to the filing of the Complaint in this action until  
19 resolution of this lawsuit (hereinafter collectively referred to as the "RSC  
Waiting Time Sub Class").

20 14. The members of the Pay Stub Class, the RSC Class, and the RSC Waiting Time  
21 Sub Class (collectively, the "Classes" or "Class Members") are so numerous as to make it  
22 impracticable to bring them all before this Court. Plaintiff is unable to state the exact number of  
23 the Class Members without discovery of Defendants' books and records, but avers upon  
24 information and belief that each of the Classes exceed fifty members. The identity of Class  
25 Members is readily ascertainable by an inspection of Defendants' employment and payroll  
26 records.

1           15.     There are questions of law and fact common to the members of each of the  
2     Classes that predominate over any questions affecting any individual in the Classes. Defendants  
3     have acted, and refused to act, on grounds generally applicable to members of the Classes.

4           16.     Plaintiff's claims are typical of the claims of the Class Members and Plaintiff will  
5     fairly and adequately protect the interests of these members.

6           17.     The prosecution of separate actions by individual members of the Classes would  
7     create the risk of:

8                   (a)     Inconsistent or varying adjudications in different jurisdictions with respect  
9     to individual Class Members, which would establish incompatible standards of conduct for  
10    Defendants; and

11                  (b)     Adjudications with respect to individual Class Members which, as a  
12    practical matter, would be dispositive of the interests and rights of Class Members who are not  
13    parties to the adjudications, or would substantially impair or impede the ability of Class  
14    Members to protect their interests.

15           18.     At all times relevant to this action, Defendants have enacted and effected  
16    unlawful and unfair state-wide employment policies and practices which have caused Plaintiff  
17    and members of the Classes to suffer injury. A class action is superior to other available  
18    methods for the fair and efficient adjudication of Defendants' policies and practices and the  
19    damage they caused Plaintiff and members of the Classes to suffer and which are the subject  
20    matter of this action.

21           19.     Employers in the state of California violate employment and labor laws every  
22    day. Current employees are often afraid to assert their rights out of fear of direct or indirect  
23    retaliation. Former employees are fearful of bringing actions because they believe their former  
24    employers may damage their future endeavors through negative references and/or other means.  
25    The nature of this action allows for the protection of current and former employees' rights  
26    without fear for retaliation or damage.

20. The claims asserted herein implicate questions of law or fact common to members of the Classes. These common questions predominate over any questions affecting only individual Class Members. Common questions include, but are not limited to:

(a) Whether Defendants failed to maintain and provide Pay Stub Class members with wage statements that complied with the requirements of the California Labor Code §226(a);

(b) Whether Defendants failed to provide members of the RSC Class with proper meal premium pay at the true regular rate of pay as required by California Labor Code §§226.7(c) and 1198 and the applicable California Industrial Welfare Commission ("IWC") Wage Order;

(c) Whether Defendants failed to provide members of the RSC Class with proper rest premium pay at the true regular rate of pay as required by California Labor Code §§226.7(c) and 1198 and the applicable California IWC Wage Order;

(d) Whether Defendants failed to provide members of the RSC Class with all required overtime in violation of California Labor Code §§510 and 1198;

(e) Whether Defendants failed to provide members of the RSC Class with all required minimum wages in violation of California Labor Code §§1197 and 1198 and the applicable California IWC Wage Order;

(f) Whether Defendants unlawfully failed to pay all wages due and owing to RSC Class members, and on a timely manner timely wages to members of the RSC Waiting Time Sub Class in violation of California Labor Code §§201, 202, and 203;

(g) Whether Defendants engaged in unfair competition in violation of California Business and Professions Code §§17200, *et seq.*; and

(h) The appropriate amount of penalties, damages, and restitution resulting from Defendants' violations of California law.

#### **FACTUAL ALLEGATIONS**

21. At all times set forth herein, Defendants employed, and continue to employ, employees throughout the state of California. Upon information and belief, defendant AT&T

1 Mobility Services LLC is a Delaware corporation with principal executive offices in Georgia.  
2 AT&T Mobility Services LLC is currently registered to do business in the state of California and  
3 does business in San Diego, California.

4 22. Upon information and belief, defendant, AT&T Mobility LLC is Delaware  
5 corporation with principal executive offices in Georgia. AT&T Mobility LLC is currently  
6 registered to do business in the state of California and does business in San Diego, California.

7 23. Upon information and belief, defendants AT&T Mobility provide wireless  
8 services and products and employ persons throughout San Diego County and the state of  
9 California.

10 24. Plaintiff is a former employee of Defendants and worked in San Diego County,  
11 California, until approximately April 21, 2014. At times relevant, she held a non-exempt  
12 employee position of Retail Sales Consultant. Plaintiff worked for Defendants at times during  
13 the relevant period specified herein.

14 25. Plaintiff and other members of the Pay Stub Class, the RSC Class, and the RSC  
15 Waiting Time Sub Class have been at times pertinent hereto, employees of Defendants within the  
16 meaning of the California Labor Code and the implementing rules and regulations of the  
17 California IWC Wage Orders. Plaintiff and other members of the RSC Class and the RSC  
18 Waiting Time Sub Class have been at times pertinent hereto, non-exempt employees of  
19 Defendants within the meaning of the California Labor Code and the implementing rules and  
20 regulations of the California IWC Wage Orders.

21 26. During the relevant time frame, Defendants knowingly and intentionally failed,  
22 and continue to fail, to provide Plaintiff and other members of Pay Stub Class with wage  
23 statements that contained the information required by California Labor Code §226(a). The wage  
24 statements Defendants have provided to Plaintiff and other employees in Pay Stub Class fail to,  
25 among other things, on their face correctly state the work dates for which payments are being  
26 paid including overtime wages, commissions, and adjustments, and accurately itemize the total  
27 hours worked and all applicable hourly rates in effect during the pay period and the  
28 corresponding number of hours worked at each hourly rate in effect each pay period. For

1 example, the wage statements, on their face, fail to identify a rate of pay, hours worked, and time  
2 periods for "true up payments" and "additional adjustments;" fail to have corresponding time  
3 periods listed for each time period that non-base payments are being made such as overtime and  
4 commissions; fail to accurately itemize the total hours worked; and fail to accurately state the  
5 rate of pay for meal and rest premiums in that the premium payments are not based on the  
6 employees' true regular rate of pay but rather only their base pay. Additionally, the wage  
7 statements fail to accurately itemize hours worked and gross and net wages earned in that for  
8 RSC Class members, the wage statements omit some hours worked and wages earned as a result  
9 of these employees not being paid for all time spent working while waiting for procedures to be  
10 completed for electronic devices and closing. Furthermore, the wage statements omit required  
11 information about the employer legal entities in that the wage statements identify AT&T  
12 Mobility Services LLC as the employer but fail to identify AT&T Mobility LLC as an employer.  
13 AT&T Mobility LLC is identified in a Labor Agreement between AT&T Mobility LLC and the  
14 Communication Workers of America as an employer of persons covered by that agreement.

15 27. During the relevant time frame, Plaintiff and RSC Class members have been  
16 systematically denied all extra hours of pay, at these employees' true regular rates of pay, as  
17 required by California law where meal periods were not provided and rest periods not authorized  
18 and permitted. Rather, when Defendants did pay the extra hours of pay, Defendants did so at the  
19 employees' base regular rate of pay and not their true regular rate of pay which includes  
20 commissions, incentive pay, and other forms of compensation that is factored into the calculation  
21 of the employees' regular rate of pay.

22 28. During the relevant time frame, Plaintiff and RSC Class members were not  
23 exempt from receiving the applicable minimum wages and overtime wages. Notwithstanding  
24 this, these persons had their rights violated through Defendants' failure to pay applicable  
25 minimum, overtime, and regular wages. Such violations resulted from Defendants' conduct  
26 which includes, but is not limited to: (i) failing to pay for all time worked arising from time spent  
27 waiting for issuance and return of electronic devices (e.g., iPads) for work; and (ii) failing to pay  
28 for all time worked to closing shift RSC Class members arising from time spent waiting to be

1 released from work at the end of closing shifts as a result of procedures such as lock-up, closing  
2 up, and alarming procedures.

3 29. During the relevant time frame, Plaintiff and RSC Waiting Time Sub Class  
4 members each were required to be paid timely upon separation of employment in accordance  
5 with California Labor Code §§201, 202, and 203. Defendants, through their actions including  
6 those alleged herein of not paying proper wages, wilfully have not paid these employees all  
7 wages due during upon separation of employment.

8 30. During the relevant time frame, Defendants engaged in unlawful conduct and  
9 unfair competition resulting in injury to Plaintiff and, on information and belief, others through  
10 their violation of California's wage and hour laws alleged herein.

### 11 **FIRST CAUSE OF ACTION**

#### 12 **Class Claim for Violation of California Labor Code §1197 Against All Defendants** 13 **(Minimum Wage Claim)**

14 31. Plaintiff repeats and incorporates herein by reference each and every allegation  
15 contained above, as though fully set forth herein.

16 32. California Labor Code §1197 specifies that an employer engages in an unlawful  
17 act if it pays employees an amount less than the lawful minimum wage fixed by the California  
18 IWC Wage Order.

19 33. The "Minimum Wages" section of the applicable California IWC Wage Order  
20 makes it unlawful for an employer to pay less than the applicable minimum wage for all hours  
21 worked, whether the remuneration is measured by time, piece, commission, or otherwise.

22 34. During times relevant, Defendants failed to pay, at least minimum wages for all  
23 hours worked, to Plaintiff and members of the RSC Class This occurred as a result of  
24 Defendants' conduct of, among other things: (i) failing to pay for all time worked arising from  
25 time spent waiting for issuance and return of electronic devices (e.g., iPads) for work; and (ii)  
26 failing to pay for all time worked to closing shift RSC Class members arising from time spent  
27 waiting to be released from work at the end of closing shifts as a result of procedures such as  
28 lock-up, closing up, and alarming procedures.

35. California Labor Code §§201 and 202 set forth timing requirements for the payment of wages to employees who are separating employment. A violation of California Labor Code §§201 and/or 202 results in payment waiting time penalties under California Labor Code §203.

36. During times relevant, Defendants failed to pay Plaintiff and members of the RSC Waiting Time Sub Class wages timely in conformance with the requirements set forth in California Labor Code §§201 and 202, as applicable.

37. For this violation, Plaintiff and members of the RSC Class are entitled to and seek the payment of the unlawfully withheld minimum wages and further seek recovery of any and all available remedies to the extent permissible including recovery of interest, attorneys' fees and costs, and liquidated damages relating to any unpaid minimum wages under California Labor Code §§1194 and 1194.2. Further, Plaintiff and members of the RSC Waiting Time Sub Class who have not been paid timely within the statutory period set forth in California Labor Code §§201 and 202 are entitled to and seek recovery of penalties under California Labor Code §203.

## **SECOND CAUSE OF ACTION**

### **Class Claim for Violation of California Labor Code §510 Against All Defendants (Overtime Claim)**

38. Plaintiff repeats and incorporates herein by reference each and every allegation contained above, as though fully set forth herein.

39. California Labor Code §510(a) provides in relevant part with respect to non-exempt employees:

Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

40. During times relevant, Defendants failed to pay overtime wages for all hours worked to Plaintiff and members of the RSC Class. This occurred as a result of Defendants' conduct of, among other things: (i) failing to pay for all time worked arising from time spent waiting for issuance and return of electronic devices (e.g., iPads) for work; and (ii) failing to pay for all time worked to closing shift RSC Class members arising from time spent waiting to be released from work at the end of closing shifts as a result of procedures such as lock-up, closing up, and alarming procedures.

41. California Labor Code §§201 and 202 set forth timing requirements for the payment of wages to employees who are separating employment. A violation of California Labor Code §§201 and/or 202 results in payment waiting time penalties under California Labor Code §203.

42. During times relevant, Defendants failed to pay Plaintiff and members of the RSC Waiting Time Sub Class wages timely in conformance with the requirements set forth in California Labor Code §§201 and 202, as applicable.

43. For this violation, Plaintiff and members of the RSC Class are entitled to and seek the payment of the unlawfully withheld overtime wages and further seek recovery of any and all available remedies to the extent permissible including recovery of interest, attorneys' fees and costs, and liquidated damages relating to any unpaid overtime wages under California Labor Code §§1194 and 1194.2. Further, Plaintiff and members of the RSC Waiting Time Sub Class who have not been paid timely within the statutory period set forth in California Labor Code §§201 and 202 are entitled to and seek recovery of penalties under California Labor Code §203.

### **THIRD CAUSE OF ACTION**

#### **Class Claim for Violation of California Labor Code §226.7(b) Against All Defendants (Rest Period Claim)**

44. Plaintiff repeats and incorporates herein by reference each and every allegation contained above, as though fully set forth herein.

45. California Labor Code §226.7(b) makes it unlawful for an employer to require any employee to work during any paid rest period mandated by an applicable California IWC

1 Wage Order. California Labor Code §1198 additionally makes it unlawful to employ persons  
 2 under conditions prohibited by a Wage Order. The "Rest Periods" section of the applicable  
 3 Wage Order provides the following in relevant part:

4 Every employer shall authorize and permit all employees to take rest periods,  
 5 which insofar as practicable shall be in the middle of each work period. The  
 6 authorized rest period time shall be based on the total hours worked daily at the  
 7 rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.  
 8 However, a rest period need not be authorized for employees whose total daily  
 9 work time is less than three and one-half (3½) hours. Authorized rest period time  
 10 shall be counted, as hours worked for which there shall be no deduction from  
 11 wages.

12 46. California Labor Code §226.7(c) provides that an employer shall pay an employee  
 13 one additional hour of pay at the employee's regular rate of compensation for each workday that  
 14 the rest period is not provided.

15 47. During times relevant, Defendants failed to pay the appropriate payment under  
 16 California Labor Code §226.7(c) because Defendants, if and when paid, paid the additional hour  
 17 not at the employee's true regular rate of compensation, but rather used the employee's base rate  
 18 compensation not taking into account other compensation that forms the regular rate of  
 19 compensation such as commissions and incentive pay.

20 48. For this violation, Plaintiff and members of the RSC Class are entitled to and seek  
 21 one hour of premium pay at the employees' true regular rate of compensation for each day in  
 22 which a paid rest period was not authorized and permitted, and further seek recovery of any and  
 23 all available remedies to the extent permissible including recovery of interest, attorneys' fees, and  
 24 costs.

#### 25 **FOURTH CAUSE OF ACTION**

##### 26 **Class Claim for Violations of California Labor Code §§226.7(b) Against All Defendants 27 (Meal Period Claim)**

28 49. Plaintiff repeats and incorporates herein by reference each and every allegation  
 contained above, as though fully set forth herein.

50. California Labor Code §226.7(b) makes it unlawful for an employer to require  
 any employee to work during any meal period mandated by an applicable California IWC Wage

1 Order. California Labor Code §1198 additionally makes it unlawful to employ persons under  
2 conditions prohibited by a Wage Order. The "Meal Periods" section of the applicable Wage  
3 Order provides the following in relevant part:

4 No employer shall employ any person for a work period of more than five (5)  
5 hours without a meal period of not less than 30 minutes, except that when a work  
6 period of not more than six (6) hours will complete the day's work the meal period  
7 may be waived by mutual consent of the employer and employee. Unless the  
8 employee is relieved of all duty during a 30 minute meal period, the meal period  
9 shall be considered an "on duty" meal period and counted as time worked. An  
10 "on duty" meal period shall be permitted only when the nature of the work  
11 prevents an employee from being relieved of all duty and when by written  
12 agreement between the parties an on-the-job paid meal period is agreed to. The  
written agreement shall state that the employee may, in writing, revoke the  
agreement at any time.... If an employer fails to provide an employee a meal  
period in accordance with the applicable provisions of this order, the employer  
shall pay the employee one (1) hour of pay at the employee's regular rate of  
compensation for each work day that the meal period is not provided.

13 51. California Labor Code §226.7(c) provides that an employer shall pay an employee  
14 one additional hour of pay at the employee's regular rate of compensation for each workday that  
15 the meal period is not provided.

16 52. During times relevant, Defendants failed to pay the appropriate payment under  
17 California Labor Code §226.7(c) because Defendants, if and when paid, paid the additional hour  
18 not at the employee's true regular rate of compensation, but rather used the employee's base rate  
19 compensation not taking into account other compensation that forms the regular rate of  
20 compensation such as commissions and incentive pay.

21 53. For this violation, Plaintiff and members of the RSC Class are entitled to and seek  
22 one hour of premium pay at the employees' true regular rate of compensation for each day in  
23 which a meal period was provided, and further seek recovery of any and all available remedies to  
24 the extent permissible including recovery of interest, attorneys' fees, and costs.

**FIFTH CAUSE OF ACTION**

**Class Claim for Violations of California Labor Code §§201 and 202 Against All Defendants  
(For Failure to Pay Wages Owed on Separation of Employment)**

54. Plaintiff repeats and incorporates herein by reference each and every allegation contained above, as though fully set forth herein.

55. California Labor Code §§201 and 202 require an employer who discharges an employee to pay compensation due and owing to said employee immediately upon discharge and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two hours thereafter, unless the employee has given seventy-two hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages on their last day of work. California Labor Code §203 provides that if an employer willfully fails to pay compensation promptly upon discharge, as required by California Labor Code §§201 and 202, the employer is liable for waiting time penalties in the form of continued compensation for up to thirty work days.

56. During the relevant time period and through its conduct including that alleged herein, Defendants willfully failed and refused, and continue to willfully fail and refuse, to pay Plaintiff and members of the RSC Waiting Time Sub Class their wages, earned and unpaid, either at the time of discharge, or within seventy-two hours of their voluntarily leaving Defendants' employ. Premium, regular, and minimum wages were improperly unpaid, but upon separation, Defendants also failed to pay earned and calculable wages due and owing within the time frame specified by California Labor Code §§201 and 202.

57. Defendants' willful failure to pay Plaintiff and RSC Waiting Time Sub Class members their wages earned and unpaid at the time of discharge, or within seventy-two hours of their voluntarily leaving Defendants' employ, violates California Labor Code §§201 and 202, as applicable. As a result, Defendants are liable to Plaintiff and members of the RSC Waiting Time Sub Class for waiting time penalties under California Labor Code §203, in an amount according to proof at the time of trial.

**SIXTH CAUSE OF ACTION**

**Class Claim for Violation of California Labor Code §226(a) Against All Defendants  
(Pay Stub Claim)**

58. Plaintiff repeats and incorporates herein by reference each and every allegation contained above, as though fully set forth herein.

59. California Labor Code §226(a) sets forth reporting requirements for employers when they pay wages. In relevant part, it states:

Every employer shall ... at the time of each payment of wages, furnish each of his or her employees ... an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer ..., and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee....

California Labor Code §226(e) provides:

An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

California Labor Code §226(e)(2)(B) provides:

An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide accurate and complete information as required by any one or more of items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and easily determine from the wage statement alone one or more of the following: (i) The amount of the gross wages or net wages paid to the employee during the pay period or any of the other information required to be provided on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a);] (ii) Which deductions the employer made from

1 gross wages to determine the net wages paid to the employee during the pay  
2 period. Nothing in this subdivision alters the ability of the employer to aggregate  
3 deductions consistent with the requirements of item (4) of subdivision (a)[;] (iii)  
4 The name and address of the employer and, if the employer is a farm labor  
5 contractor, as defined in subdivision (b) of Section 1682, the name and address of  
6 the legal entity that secured the services of the employer during the pay period[;  
7 and] (iv) The name of the employee and only the last four digits of his or her  
8 social security number or an employee identification number other than a social  
9 security number.

10 60. During the relevant time frame, Defendants knowingly and intentionally failed,  
11 and continue to fail, to provide Plaintiff and other members of Pay Stub Class with wage  
12 statements that contained the information required by California Labor Code §226(a). The wage  
13 statements Defendants have provided to Plaintiff and other employees in Pay Stub Class fail to,  
14 among other things, on their face correctly state the work dates for which payments are being  
15 paid including overtime wages, commissions, and adjustments, and accurately itemize the total  
16 hours worked and all applicable hourly rates in effect during the pay period and the  
17 corresponding number of hours worked at each hourly rate in effect each pay period. For  
18 example, the wage statements, on their face, fail to identify a rate of pay, hours worked, and time  
19 periods for "true up payments" and "additional adjustments;" fail to have corresponding time  
20 periods listed for each time period that non-base payments are being made such as overtime and  
21 commissions; fail to accurately itemize the total hours worked; and fail to accurately state the  
22 rate of pay for meal and rest premiums in that the premium payments are not based on the  
23 employees' true regular rate of pay but rather only their base pay. Additionally, the wage  
24 statements fail to accurately itemize hours worked and gross and net wages earned in that for  
25 RSC Class members, the wage statements omit some hours worked and wages earned as a result  
26 of these employees' not being paid for all time spent working while waiting for procedures to be  
27 completed for electronic devices and closing. Furthermore, the wage statements omit required  
28 information about the employer legal entities in that the wage statements identify AT&T  
Mobility Services LLC as the employer but fail to identify AT&T Mobility LLC as an employer.  
AT&T Mobility LLC is identified in a Labor Agreement between AT&T Mobility LLC and the  
Communication Workers of America as an employer of persons covered by that agreement.

1           61. Plaintiff and other Pay Stub Class members have been injured, as defined by  
2 California Labor Code §226, by these omissions and inaccuracies.

3           62. Defendants knowingly and intentionally failed, and continue to fail, to furnish  
4 Plaintiff and Pay Stub Class members complete and accurate wage statements upon each  
5 payment of wages in violation of California Labor Code §226(a). Plaintiff and Pay Stub Class  
6 members have been injured and damaged by these failures because, among other things, it  
7 renders them unable to determine whether Defendants properly recorded their hours worked and  
8 makes it impossible to tell whether they were properly compensated for all pay earned at the  
9 proper rates and during the applicable pay period. Plaintiff and, on information and belief, Pay  
10 Stub Class members are required to engage in discovery and mathematical computations to  
11 reconstruct their time records to determine if they were paid correctly as a result of the inaccurate  
12 and/or incomplete wage statements. Plaintiff and, on information and belief, Pay Stub Class  
13 members cannot easily ascertain from the information provided to them through the wage  
14 statements whether his or her wages and hours have been calculated correctly. Accordingly,  
15 Plaintiff and, on information and belief, Pay Stub Class members cannot promptly and easily  
16 determine from the wage statement alone the information set forth in California Labor Code  
17 §226(e)(2)(B) to assure that he or she is not being underpaid and have had to refer to other  
18 documents and information to attempt to ascertain this information.

19           63. Defendants will no doubt continue these illegal practices until such time as they  
20 are forced to pay monies set forth under California Labor Code §226(e). Defendants moreover  
21 will no doubt continue these illegal practices until such time as they are forced to cease such  
22 practice under the injunctive relief provision of California Labor Code §226(h).

23           64. Plaintiff and Pay Stub Class members are entitled to and seek any and all  
24 available remedies to the extent permissible including injunctive relief and recovery of all  
25 available statutory damages, penalties, interest, attorneys' fees, and costs pursuant to California  
26 Labor Code §226(e) and (h).



1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff requests entry of judgment, on behalf of herself and the other  
3 California employees, against each defendant, jointly and severally, as follows:

4 **Class Certification**

- 5 1. That this action be certified as a class action;
- 6 2. That Plaintiff be appointed as the representative of the Pay Stub Class, the RSC  
7 Class, and the RSC Waiting Time Sub Class; and
- 8 3. That counsel for Plaintiff be appointed as counsel for the Pay Stub Class, the RSC  
9 Class, and the RSC Waiting Time Sub Class.

10 **On the First and Second Causes of Action**

- 11 1. For repayment of wages and liquidated damages, under the First and Second  
12 Causes of Action, to Plaintiff and members of the RSC Class under California Labor Code  
13 §§1194 and 1194.2 according to proof and to the extent permissible;
- 14 2. For payment of penalties to Plaintiff and members of the RSC Waiting Time Sub  
15 Class under California Labor Code §203 according to proof and to the extent permissible;
- 16 3. For pre-judgment interest on any unpaid wages due from the day that such  
17 amounts were due under California Labor Code §1194;
- 18 4. For reasonable attorneys' fees that Plaintiff and members of the RSC Class are  
19 entitled to recover under California Labor Code §1194;
- 20 5. For costs of suit incurred herein that Plaintiff and members of the RSC Class are  
21 entitled to recover under California Labor Code §1194; and
- 22 6. For such other and further relief as the Court deems proper.

23 **On the Third and Fourth Causes of Action**

- 24 1. For statutory premium wages to Plaintiff and members of the RSC Class under  
25 California Labor Code §226.7(c) according to proof;
- 26 2. For reasonable attorneys' fees and costs of suit pursuant to California Code of  
27 Civil Procedure §1021.5;

1           3.       For pre-judgment interest on any unpaid wages due from the day that such  
2 amounts were due; and

3           4.       For such other and further relief as the Court deems proper.

4                               On the Fifth Cause of Action

5           1.       For penalties according to proof under California Labor Code §203 to Plaintiff  
6 and members of the RSC Waiting Time Sub Class;

7           2.       For reasonable attorneys' fees;

8           3.       For costs of suit incurred herein; and

9           4.       For such other and further relief as the Court deems proper.

10                           On the Sixth Cause of Action

11          1.       For penalties and damages according to proof under California Labor Code  
12 §226(e) to Plaintiff and Pay Stub Class members;

13          2.       For injunctive relief under California Labor Code §226(h);

14          3.       For reasonable attorneys' fees;

15          4.       For costs of suit incurred herein; and

16          5.       For such other and further relief as the Court deems proper.

17                           On the Seventh Cause of Action

18          1.       That Defendants, jointly and/or severally, pay restitution and/or disgorgement of  
19 sums to Plaintiff and members of the RSC Class for their failures to pay all minimum wages over  
20 the last four years in an amount according to proof;

21          2.       That Defendants, jointly and/or severally, pay restitution and/or disgorgement of  
22 sums to Plaintiff and members of the RSC Class for their failures to pay all overtime wages over  
23 the last four years in an amount according to proof;

24          3.       That Defendants, jointly and/or severally, pay restitution and/or disgorgement of  
25 sums to Plaintiff and members of the RSC Class for their failures to pay all wages due and owing  
26 over the last four years as in an amount according to proof;

27          4.       That Defendants, jointly and/or severally, pay restitution and/or disgorgement of  
28 sums to Plaintiff and members of the RSC Class for their failures to pay correct premium wages

1 for rest periods that were not authorized and permitted over the last four years in an amount  
2 according to proof;

3 5. That Defendants, jointly and/or severally, pay restitution and/or disgorgement of  
4 sums to Plaintiff and members of the RSC Class for their failures to pay correct premium wages  
5 for meal periods that were not provided over the last four years in an amount according to proof;

6 6. For pre-judgment interest on any unpaid wages due from the day that such  
7 amounts were due;

8 7. For reasonable attorneys' fees that Plaintiff and members of the RSC Class are  
9 entitled to recover under California Labor Code §§218.5 and 1194, and California Code of Civil  
10 Procedure §1021.5;

11 8. For costs of suit incurred herein that Plaintiff and members of the RSC Class are  
12 entitled to recover under California Labor Code §§218.5 and 1194; and

13 9. For such other and further relief as the Court deems proper.

14 **DEMAND FOR JURY TRIAL**

15 Plaintiff requests a jury trial in this matter.

16 Dated: April 30, 2014

ROBBINS ARROYO LLP  
THE DENTE LAW FIRM

17  
18 By: 

DIANE E. RICHARD

Attorneys for Plaintiff Tran K. Ly

# EXHIBIT B



**Service of Process  
Transmittal**

06/20/2014

CT Log Number 525187093

**TO:** Jill M Calafiore, Rm 3A119A  
AT&T Corp.  
One AT&T Way-  
Bedminster, NJ 07921-

**RE: Process Served in California**

**FOR:** AT&T Mobility LLC (Domestic State: DE)

**ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:**

**TITLE OF ACTION:** Tran K. Ly, etc., Individually and on Behalf of Other Members of the Public Similarly Situated, Pltf. vs. AT&T Mobility Services LLC, et al. including AT&T Mobility LLC, Dfts.

**DOCUMENT(S) SERVED:** Summons, First Amended Class Action Complaint, Exhibit(s), Cover Sheet, Alternative Dispute Resolution Information, Instructions, Notice, Stipulation, Order, Electronic Filing Requirements

**COURT/AGENCY:** San Diego County - Superior Court - San Diego, CA  
Case # 37201400013654CUOECTL

**NATURE OF ACTION:** Employee Litigation - Class Action Claims - Violations of California Labor Codes - Unpaid Wages - Seeking Injunctive Relief

**ON WHOM PROCESS WAS SERVED:** C T Corporation System, Los Angeles, CA

**DATE AND HOUR OF SERVICE:** By Process Server on 06/20/2014 at 14:30

**JURISDICTION SERVED :** California

**APPEARANCE OR ANSWER DUE:** Earliest Answer Date - Within 30 days after service (Document(s) may contain additional answer dates)

**ATTORNEY(S) / SENDER(S):** Diane E. Richard  
Robbins Arroyo LLP  
600 B Street  
Suite 1900  
San Diego, CA 92101  
619-525-3990

**REMARKS:** Documents have been modified to reflect the name of the entity being served.

**ACTION ITEMS:** CT has retained the current log, Retain Date: 06/23/2014, Expected Purge Date: 07/03/2014  
Image SOP  
Email Notification, Jill M Calafiore jcalafiore@att.com

**SIGNED:** C T Corporation System  
**PER:** Nancy Flores  
**ADDRESS:** 818 West Seventh Street  
Los Angeles, CA 90017  
**TELEPHONE:** 213-337-4615

6/26/14 2:30

SUM-100

**SUMMONS AS TO COMPLAINT  
(CITACION JUDICIAL) AND FIRST****NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):** **AMENDED COMPLAINT****AT&T MOBILITY SERVICES LLC, AT&T MOBILITY LLC, and  
DOES 1-10, Inclusive****YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):****TRAN K. LY, Individually and on Behalf of Other Members of the  
Public Similarly Situated**FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego**04/30/2014 at 02:43:28 PM**Clerk of the Superior Court  
By Bernice Orihuela, Deputy Clerk**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desachar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es): **San Diego Superior Court**

**330 West Broadway  
San Diego, CA 92101**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

**Diane E. Richard, Robbins Arroyo LLP, 600 B Street, Suite 1900, San Diego, CA 92101; (619) 525-3990**

CASE NUMBER:  
(Número del Caso): **37-2014-00013654-CU-0E-CTL**

DATE: **05/01/2014**  
(Fecha)

Clerk, by B. Orihuela, Deputy  
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



**NOTICE TO THE PERSON SERVED: You are served**

1. ☐ as an individual defendant.  
2. ☐ as the person sued under the fictitious name of (specify):

3. ☒ on behalf of (specify): **AT & T mobility LLC**

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)  
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)  
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)

4. ☒ other (specify): **Limited Liability Company**  
☒ by personal delivery on (date): **6/20/14**

1 ROBBINS ARROYO LLP  
BRIAN J. ROBBINS (SB# 190264)  
2 DIANE E. RICHARD (SB# 204897)  
600 B Street, Suite 1900  
3 San Diego, CA 92101  
Telephone: (619) 525-3990  
4 Facsimile: (619) 525-3991  
brobbins@robbinsarroyo.com  
5 drichard@robbinsarroyo.com

6 THE DENTE LAW FIRM  
MATTHEW S. DENTE (SB# 241547)  
7 600 B Street, Suite 1900  
San Diego, CA 92101  
8 Telephone: (619) 550-3475  
Facsimile: (619) 342-9668  
9 matt@dentelaw.com

10 Attorneys for Plaintiff Tran K. Ly

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA

12 COUNTY OF SAN DIEGO

13 TRAN K. LY, Individually and on Behalf of  
Other Members of the Public Similarly  
14 Situated,

15 Plaintiff,

16 v.

17 AT&T MOBILITY SERVICES LLC,  
AT&T MOBILITY LLC, and  
18 DOES 1-10, Inclusive,

19 Defendants.

Case No. 37-2014-00013654-CU-OE-CTL

**CLASS ACTION AS TO PLAINTIFF'S  
FIRST THROUGH SEVENTH CAUSES  
OF ACTION**

**CALIFORNIA LABOR CODE PRIVATE  
ATTORNEYS GENERAL ACT OF 2004  
ACTION AS TO PLAINTIFF'S EIGHTH  
THROUGH FIFTEENTH CAUSES OF  
ACTION**

**FIRST AMENDED COMPLAINT FOR:**

- 20 (1) FAILURE TO PAY MINIMUM  
WAGES;  
21 (2) FAILURE TO PAY OVERTIME  
WAGES;  
22 (3) FAILURE TO AUTHORIZE AND  
PERMIT PAID REST PERIODS;  
23 (4) FAILURE TO PROVIDE MEAL  
PERIODS;  
24 (5) FAILURE TO PAY WAGES TIMELY  
UPON SEPARATION OF  
25 EMPLOYMENT;  
26 (6) FAILURE TO PROVIDE AND  
MAINTAIN COMPLIANT ITEMIZED  
WAGE STATEMENTS;  
27 (7) UNFAIR COMPETITION;  
28 (8) VIOLATION OF LABOR CODE  
SECTION 1197 BROUGHT UNDER  
THE LABOR CODE PRIVATE

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego

**06/04/2014** at 03:57:00 PM  
Clerk of the Superior Court  
By Calvin Beutler, Deputy Clerk

- 1 ATTORNEYS GENERAL ACT OF  
2 2004 (CAL. LAB. CODE SECTION  
3 2698, ET SEQ.);  
4 (9) VIOLATION OF LABOR CODE  
5 SECTION 510 BROUGHT UNDER  
6 THE LABOR CODE PRIVATE  
7 ATTORNEYS GENERAL ACT OF  
8 2004 (CAL. LAB. CODE SECTION  
9 2698, ET SEQ.);  
10 (10) VIOLATION OF LABOR CODE  
11 SECTION 226.7(B) BROUGHT  
12 UNDER THE LABOR CODE  
13 PRIVATE ATTORNEYS GENERAL  
14 ACT OF 2004 (CAL. LAB. CODE  
15 SECTION 2698, ET SEQ.);  
16 (11) VIOLATIONS OF LABOR CODE  
17 SECTIONS 226.7(B) AND 512  
18 BROUGHT UNDER THE LABOR  
19 CODE PRIVATE ATTORNEYS  
20 GENERAL ACT OF 2004 (CAL. LAB.  
21 CODE SECTION 2698, ET SEQ.);  
22 (12) VIOLATIONS OF LABOR CODE  
23 SECTIONS 201, 202, AND 203  
24 BROUGHT UNDER THE LABOR  
25 CODE PRIVATE ATTORNEYS  
26 GENERAL ACT OF 2004 (CAL. LAB.  
27 CODE SECTION 2698, ET SEQ.);  
28 (13) VIOLATION OF LABOR CODE  
SECTION 226(A) BROUGHT UNDER  
THE LABOR CODE PRIVATE  
ATTORNEYS GENERAL ACT OF  
2004 (CAL. LAB. CODE SECTION  
2698, ET SEQ.);  
(14) VIOLATION OF LABOR CODE  
SECTION 204 BROUGHT UNDER  
THE LABOR CODE PRIVATE  
ATTORNEYS GENERAL ACT OF  
2004 (CAL. LAB. CODE SECTION  
2698, ET SEQ.); AND  
(15) VIOLATION OF LABOR CODE  
SECTION 1198 BROUGHT UNDER  
THE LABOR CODE PRIVATE  
ATTORNEYS GENERAL ACT OF  
2004 (CAL. LAB. CODE SECTION  
2698, ET SEQ.)

**DAMAGES EXCEED \$25,000  
DEMAND FOR JURY TRIAL**

**[IMAGED FILE]**

Date Action Filed: April 30, 2014  
Judge: Honorable Joel R. Wohlfeil  
Dept.: C-73

1 COMES NOW Plaintiff Tran K. Ly ("Plaintiff"), on behalf of herself and as a  
2 representative of employees of AT&T Mobility Services LLC and AT&T Mobility LLC  
3 (collectively, "AT&T Mobility") and Does 1-10, inclusive, (collectively, with AT&T Mobility,  
4 "Defendants") and asserts the following claims:

5 1. This is a class action brought for violations of the California Labor Code  
6 pertaining to the issuance and maintenance of noncompliant itemized wage statements, failure to  
7 pay proper meal and rest premiums at the true regular rate of pay, failure to pay all required  
8 wages for all time worked arising for the time periods employees spend waiting for the issuance  
9 and return of electronic devices (e.g., iPads) and for the time periods employees spend waiting to  
10 be released from work at the end of closing shifts, and for failure to pay all wages due and owing  
11 upon separation of employment.

12 2. This is further a private attorneys general action brought under the California  
13 Labor Code Private Attorneys General Act of 2004 codified in California Labor Code §2698, *et*  
14 *seq.* ("PAGA"). On April 30, 2014, Plaintiff filed an exhaustion letter with the California Labor  
15 and Workforce Development Agency ("LWDA"), AT&T Mobility Services LLC, and AT&T  
16 Mobility LLC providing notice of her intent to bring a private attorneys general action for  
17 recovery of penalties under PAGA. *See Arias v. Superior Court*, 46 Cal. 4th 969 (2009). PAGA  
18 permits an "aggrieved employee" to bring a lawsuit for civil penalties arising from violations of  
19 California's Labor Code committed against himself or herself and other current and former  
20 employees, as a private attorney general, to address an employer's violations of the California  
21 Labor Code. *Id.* at 980-81. More than thirty-three days have elapsed since Plaintiff served the  
22 PAGA notice without the LWDA providing notice of its intent to investigate, and further without  
23 AT&T Mobility Services LLC, and/or AT&T Mobility LLC providing notice that they have  
24 cured any of the alleged violations as may be applicable. Accordingly, Plaintiff brings a PAGA  
25 enforcement action as alleged herein.

26 3. Plaintiff is, and at all times mentioned in this Complaint was, a resident of San  
27 Diego, California.

28

1           4.     Upon information and belief, defendant AT&T Mobility Services LLC is a  
2 Delaware corporation with principal executive offices in Georgia. AT&T Mobility Services  
3 LLC is currently registered to do business in the state of California and does business in San  
4 Diego, California.

5           5.     Upon information and belief, defendant AT&T Mobility LLC is a Delaware  
6 corporation with principal executive offices in Georgia. AT&T Mobility, LLC is currently  
7 registered to do business in the state of California and does business in San Diego, California.

8           6.     Upon information and belief, defendants AT&T Mobility are employers whose  
9 employees are engaged throughout San Diego County and the state of California.

10          7.     Whenever in this Complaint reference is made to any act, deed, or conduct of  
11 AT&T Mobility, the allegation means that AT&T Mobility engaged in the act, deed, or conduct  
12 by or through one or more of its officers, directors, agents, employees, or representatives, who  
13 was actively engaged in the management, direction, control, or transaction of the ordinary  
14 business and affairs of AT&T Mobility.

15          8.     Plaintiff is ignorant of the true names and capacities, whether individual,  
16 corporate, associate, or otherwise, of the defendants sued herein as Does 1-10, inclusive and  
17 therefore sues said defendants by such fictitious names ("Doe Defendants"). Plaintiff will amend  
18 this Complaint to insert the true names and capacities of the Doe Defendants at such time as the  
19 identities of the Doe Defendants are ascertained.

20          9.     Plaintiff is informed and believes, and thereon alleges, that the Doe Defendants  
21 are the partners, agents, or principals and/or co-conspirators of AT&T Mobility, and of each  
22 other; that AT&T Mobility and the Doe Defendants performed the acts and conduct herein  
23 alleged directly, aided and abetted the performance thereof, or knowingly acquiesced in, ratified,  
24 and accepted the benefits of such acts and conduct, and therefore each of the Doe Defendants is  
25 liable to the extent of the liability of AT&T Mobility as alleged herein.

26          10.    Plaintiff is further informed and believes, and thereon alleges, that at all times  
27 herein material, each defendant was completely dominated and controlled by its co-defendants  
28 and each was the alter ego of the other. Whenever and wherever reference is made in this

Complaint to any conduct by AT&T Mobility or Defendants, such allegations and references shall also be deemed to mean the conduct of each of the Defendants, acting individually, jointly, and severally. Whenever and wherever reference is made to individuals who are not named as defendants in this Complaint, but were employees and/or agents of Defendants, such individuals at all relevant times acted on behalf of Defendants named in this Complaint within the scope of their respective employments.

### **CLASS ACTION ALLEGATIONS**

11. Plaintiff brings her claim for relief in this action on behalf of herself as well as on behalf of each and all other persons similarly situated, and thus, seeks class certification under California Code of Civil Procedure §382.

12. All claims alleged herein arise under California law for which Plaintiff seeks relief as authorized by California law.

13. With respect to Plaintiff's First through Seventh Causes of Action, the proposed Classes and Sub Class are comprised of and defined as:

Any and all persons who are or were employees of AT&T Mobility LLC and/or AT&T Mobility Services LLC in the state of California within one year prior to the filing of the Complaint in this action until resolution of this lawsuit and who received a paystub (hereinafter collectively referred to as the "Pay Stub Class").

Any and all persons who are or were non-exempt Retail Sales Consultant employees, or equivalent positions however titled, of AT&T Mobility LLC and/or AT&T Mobility Services LLC in the state of California within four years prior to the filing of the Complaint in this action until resolution of this lawsuit (hereinafter collectively referred to as the "RSC Class").

Any and all persons in the RSC Class whose employment was separated at any time within three years prior to the filing of the Complaint in this action until resolution of this lawsuit (hereinafter collectively referred to as the "RSC Waiting Time Sub Class").

14. The members of the Pay Stub Class, the RSC Class, and the RSC Waiting Time Sub Class (collectively, the "Classes" or "Class Members") are so numerous as to make it impracticable to bring them all before this Court. Plaintiff is unable to state the exact number of the Class Members without discovery of Defendants' books and records, but avers upon information and belief that each of the Classes exceed fifty members. The identity of Class

1 Members is readily ascertainable by an inspection of Defendants' employment and payroll  
2 records.

3 15. There are questions of law and fact common to the members of each of the  
4 Classes that predominate over any questions affecting any individual in the Classes. Defendants  
5 have acted, and refused to act, on grounds generally applicable to members of the Classes.

6 16. Plaintiff's claims are typical of the claims of the Class Members and Plaintiff will  
7 fairly and adequately protect the interests of these members.

8 17. The prosecution of separate actions by individual members of the Classes would  
9 create the risk of:

10 (a) Inconsistent or varying adjudications in different jurisdictions with respect  
11 to individual Class Members, which would establish incompatible standards of conduct for  
12 Defendants; and

13 (b) Adjudications with respect to individual Class Members which, as a  
14 practical matter, would be dispositive of the interests and rights of Class Members who are not  
15 parties to the adjudications, or would substantially impair or impede the ability of Class  
16 Members to protect their interests.

17 18. At all times relevant to this action, Defendants have enacted and effected  
18 unlawful and unfair state-wide employment policies and practices which have caused Plaintiff  
19 and members of the Classes to suffer injury. A class action is superior to other available  
20 methods for the fair and efficient adjudication of Defendants' policies and practices and the  
21 damage they caused Plaintiff and members of the Classes to suffer and which are the subject  
22 matter of this action.

23 19. Employers in the State of California violate employment and labor laws every  
24 day. Current employees are often afraid to assert their rights out of fear of direct or indirect  
25 retaliation. Former employees are fearful of bringing actions because they believe their former  
26 employers may damage their future endeavors through negative references and/or other means.  
27 The nature of this action allows for the protection of current and former employees' rights  
28 without fear for retaliation or damage.

20. The claims asserted herein implicate questions of law or fact common to members of the Classes. These common questions predominate over any questions affecting only individual Class Members. Common questions include, but are not limited to:

(a) Whether Defendants failed to maintain and provide Pay Stub Class members with wage statements that complied with the requirements of the California Labor Code §226(a);

(b) Whether Defendants failed to provide members of the RSC Class with proper meal premium pay at the true regular rate of pay as required by California Labor Code §§226.7(c) and 1198 and the applicable California Industrial Welfare Commission ("IWC") Wage Order;

(c) Whether Defendants failed to provide members of the RSC Class with proper rest premium pay at the true regular rate of pay as required by California Labor Code §§226.7(c) and 1198 and the applicable California IWC Wage Order;

(d) Whether Defendants failed to provide members of the RSC Class with all required overtime in violation of California Labor Code §§510 and 1198;

(e) Whether Defendants failed to provide members of the RSC Class with all required minimum wages in violation of California Labor Code §§1197 and 1198 and the applicable California IWC Wage Order;

(f) Whether Defendants unlawfully failed to pay all wages due and owing to RSC Class members, and on a timely manner timely wages to members of the RSC Waiting Time Sub Class in violation of California Labor Code §§201, 202, and 203;

(g) Whether Defendants engaged in unfair competition in violation of California Business and Professions Code §§17200, *et seq.*; and

(h) The appropriate amount of penalties, damages, and restitution resulting from Defendants' violations of California law.

#### **PAGA ALLEGATIONS**

21. This is a PAGA enforcement action as to Plaintiff's Eighth through Fifteenth Causes of Action only for recovery of civil penalties under the PAGA. *See Arias*, 46 Cal. 4th at

1 969. PAGA permits an "aggrieved employee" to bring a lawsuit for civil penalties as a private  
2 attorney general, to address an employer's violations of the California Labor Code committed  
3 against the aggrieved employee and other current and former employees. *Id.* at 980-81. In this  
4 case, Defendants violated California Labor Code §§201, 202, 203, 204, 226(a), 226.7(b), 510,  
5 512, 1197, and 1198 as set forth more fully below. Plaintiff seeks PAGA penalties for the  
6 violations committed against her and Defendants' other current and former California employees.

7 22. Plaintiff's Eighth through Fifteenth Causes of Action are suitable for treatment as  
8 a PAGA action for the following reasons:

9 (a) The violations set forth in Plaintiff's Eighth through Fifteenth Causes of  
10 Action allege violations of the California Labor Code for which the Code provides a civil penalty  
11 to be assessed and recovered by the LWDA or any department, division, commission, boards,  
12 agencies, or employees, or for which a penalty is provided for under California Labor Code  
13 §2699(f);

14 (b) Plaintiff is an "aggrieved employee" because she was employed by the  
15 Defendants and had one or more of the alleged violations committed against her;

16 (c) Plaintiff complied with the requirement to commence a civil action under  
17 California Labor Code §2699.3;

18 (d) Plaintiff complied with the exhaustion requirements of PAGA by  
19 providing notice by certified letter on April 30, 2014, to AT&T Mobility Services LLC, AT&T  
20 Mobility LLC, and the LWDA concerning the PAGA claims Plaintiff intends to pursue. A true  
21 and correct copy of the notice is attached as Exhibit A. More than thirty-three days have elapsed  
22 since Plaintiff served the PAGA notice, and the LWDA has not provided notice of its intent to  
23 investigate, nor has AT&T Mobility LLC or AT&T Mobility Services LLC provided notice that  
24 they have cured any of the alleged violations as may be applicable; and

25 (e) "Current and former employees," for the purposes of the PAGA claims  
26 include any and all non-exempt Retail Sales Consultant employees, or equivalent positions  
27 however titled, of AT&T Mobility LLC and/or AT&T Mobility Services LLC in the State of  
28

1 California, unless a different employee status is noted, at any time during the PAGA statutory  
2 period.

3 **FACTUAL ALLEGATIONS**

4 23. At all times set forth herein, Defendants employed, and continue to employ,  
5 employees throughout the state of California. Upon information and belief, defendant AT&T  
6 Mobility Services LLC is a Delaware corporation with principal executive offices in Georgia.  
7 AT&T Mobility Services LLC is currently registered to do business in the state of California and  
8 does business in San Diego, California.

9 24. Upon information and belief, defendant, AT&T Mobility LLC is Delaware  
10 corporation with principal executive offices in Georgia. AT&T Mobility LLC is currently  
11 registered to do business in the state of California and does business in San Diego, California.

12 25. Upon information and belief, defendants AT&T Mobility provide wireless  
13 services and products and employ persons throughout San Diego County and the state of  
14 California.

15 26. Plaintiff is a former employee of Defendants and worked in San Diego County,  
16 California, until approximately April 21, 2014. At times relevant, she held a non-exempt  
17 employee position of Retail Sales Consultant. Plaintiff worked for Defendants at times during  
18 the relevant period specified herein.

19 27. Plaintiff and other members of the Pay Stub Class, the RSC Class, and the RSC  
20 Waiting Time Sub Class have been at times pertinent hereto, employees of Defendants within the  
21 meaning of the California Labor Code and the implementing rules and regulations of the  
22 California IWC Wage Orders. Plaintiff and other members of the RSC Class and the RSC  
23 Waiting Time Sub Class have been at times pertinent hereto, non-exempt employees of  
24 Defendants within the meaning of the California Labor Code and the implementing rules and  
25 regulations of the California IWC Wage Orders.

26 28. During the relevant time frame, Defendants knowingly and intentionally failed,  
27 and continue to fail, to provide Plaintiff and other members of Pay Stub Class with wage  
28 statements that contained the information required by California Labor Code §226(a). The wage

1 statements Defendants have provided to Plaintiff and other employees in Pay Stub Class fail to,  
2 among other things, on their face correctly state the work dates for which payments are being  
3 paid including overtime wages, commissions, and adjustments, and accurately itemize the total  
4 hours worked and all applicable hourly rates in effect during the pay period and the  
5 corresponding number of hours worked at each hourly rate in effect each pay period. For  
6 example, the wage statements, on their face, fail to identify a rate of pay, hours worked, and time  
7 periods for "true up payments" and "additional adjustments;" fail to have corresponding time  
8 periods listed for each time period that non-base payments are being made such as overtime and  
9 commissions; fail to accurately itemize the total hours worked; and fail to accurately state the  
10 rate of pay for meal and rest premiums in that the premium payments are not based on the  
11 employees' true regular rate of pay but rather only their base pay. Additionally, the wage  
12 statements fail to accurately itemize hours worked and gross and net wages earned in that for  
13 RSC Class members, the wage statements omit some hours worked and wages earned as a result  
14 of these employees not being paid for all time spent working while waiting for procedures to be  
15 completed for electronic devices and closing. Furthermore, the wage statements omit required  
16 information about the employer legal entities in that the wage statements identify AT&T  
17 Mobility Services LLC as the employer but fail to identify AT&T Mobility LLC as an employer.  
18 AT&T Mobility LLC is identified in a Labor Agreement between AT&T Mobility LLC and the  
19 Communication Workers of America as an employer of persons covered by that agreement.

20       29. During the relevant time frame, Plaintiff and RSC Class members have been  
21 systematically denied all extra hours of pay, at these employees' true regular rates of pay, as  
22 required by California law where meal periods were not provided and rest periods not authorized  
23 and permitted. Rather, when Defendants did pay the extra hours of pay, Defendants did so at the  
24 employees' base regular rate of pay and not their true regular rate of pay which includes  
25 commissions, incentive pay, and other forms of compensation that is factored into the calculation  
26 of the employees' regular rate of pay.

27       30. During the relevant time frame, Plaintiff and RSC Class members were not  
28 exempt from receiving the applicable minimum wages and overtime wages. Notwithstanding

1 this, these persons had their rights violated through Defendants' failure to pay applicable  
 2 minimum, overtime, and regular wages. Such violations resulted from Defendants' conduct  
 3 which includes, but is not limited to: (i) failing to pay for all time worked arising from time spent  
 4 waiting for issuance and return of electronic devices (e.g., iPads) for work; and (ii) failing to pay  
 5 for all time worked to closing shift RSC Class members arising from time spent waiting to be  
 6 released from work at the end of closing shifts as a result of procedures such as lock-up, closing  
 7 up, and alarming procedures.

8 31. During the relevant time frame, Plaintiff and RSC Waiting Time Sub Class  
 9 members each were required to be paid timely upon separation of employment in accordance  
 10 with California Labor Code §§201, 202, and 203. Defendants, through their actions including  
 11 those alleged herein of not paying proper wages, wilfully have not paid these employees all  
 12 wages due during upon separation of employment.

13 32. On or about April 30, 2014, Plaintiff requested her employment records from  
 14 AT&T Mobility Services LLC and AT&T Mobility LLC, including time and wage statement  
 15 records, and compensation plan documents. As of the date of this filing, AT&T Mobility  
 16 Services LLC nor AT&T Mobility LLC had provided Plaintiff with the requested records, in  
 17 violation of the California Labor Code's and IWC Wage Order's requirements to do so.

18 33. During the relevant time frame, Defendants engaged in unlawful conduct, and  
 19 unfair competition resulting in injury to Plaintiff and, on information and belief, others through  
 20 their violation of California's wage and hour laws alleged herein.

## 21 CLASS ACTION CLAIMS

### 22 FIRST CAUSE OF ACTION

#### 23 **Class Claim for Violation of California Labor Code §1197 Against All Defendants** 24 **(Minimum Wage Claim)**

25 34. Plaintiff repeats and incorporates herein by reference each and every allegation  
 26 contained above, as though fully set forth herein.

1           35. California Labor Code §1197 specifies that an employer engages in an unlawful  
2 act if it pays employees an amount less than the lawful minimum wage fixed by the California  
3 IWC Wage Order.

4           36. The "Minimum Wages" section of the applicable California IWC Wage Order  
5 makes it unlawful for an employer to pay less than the applicable minimum wage for all hours  
6 worked, whether the remuneration is measured by time, piece, commission, or otherwise.

7           37. During times relevant, Defendants failed to pay, at least minimum wages for all  
8 hours worked, to Plaintiff and members of the RSC Class. This occurred as a result of  
9 Defendants' conduct of, among other things: (i) failing to pay for all time worked arising from  
10 time spent waiting for issuance and return of electronic devices (e.g., iPads) for work; and (ii)  
11 failing to pay for all time worked to closing shift RSC Class members arising from time spent  
12 waiting to be released from work at the end of closing shifts as a result of procedures such as  
13 lock-up, closing up, and alarming procedures.

14           38. California Labor Code §§201 and 202 set forth timing requirements for the  
15 payment of wages to employees who are separating employment. A violation of California  
16 Labor Code §§201 and/or 202 results in payment waiting time penalties under California Labor  
17 Code §203.

18           39. During times relevant, Defendants failed to pay Plaintiff and members of the RSC  
19 Waiting Time Sub Class wages timely in conformance with the requirements set forth in  
20 California Labor Code §§201 and 202, as applicable.

21           40. For this violation, Plaintiff and members of the RSC Class are entitled to and seek  
22 the payment of the unlawfully withheld minimum wages and further seek recovery of any and all  
23 available remedies to the extent permissible including recovery of interest, attorneys' fees and  
24 costs, and liquidated damages relating to any unpaid minimum wages under California Labor  
25 Code §§1194 and 1194.2. Further, Plaintiff and members of the RSC Waiting Time Sub Class  
26 who have not been paid timely within the statutory period set forth in California Labor Code  
27 §§201 and 202 are entitled to and seek recovery of penalties under California Labor Code §203.

28

**SECOND CAUSE OF ACTION**

**Class Claim for Violation of California Labor Code §510 Against All Defendants  
(Overtime Claim)**

41. Plaintiff repeats and incorporates herein by reference each and every allegation contained above, as though fully set forth herein.

42. California Labor Code §510(a) provides in relevant part with respect to non-exempt employees:

Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

43. During times relevant, Defendants failed to pay overtime wages for all hours worked to Plaintiff and members of the RSC Class. This occurred as a result of Defendants' conduct of, among other things: (i) failing to pay for all time worked arising from time spent waiting for issuance and return of electronic devices (e.g., iPads) for work; and (ii) failing to pay for all time worked to closing shift RSC Class members arising from time spent waiting to be released from work at the end of closing shifts as a result of procedures such as lock-up, closing up, and alarming procedures.

44. California Labor Code §§201 and 202 set forth timing requirements for the payment of wages to employees who are separating employment. A violation of California Labor Code §§201 and/or 202 results in payment waiting time penalties under California Labor Code §203.

45. During times relevant, Defendants failed to pay Plaintiff and members of the RSC Waiting Time Sub Class wages timely in conformance with the requirements set forth in California Labor Code §§201 and 202, as applicable.

1           46. For this violation, Plaintiff and members of the RSC Class are entitled to and seek  
 2 the payment of the unlawfully withheld overtime wages and further seek recovery of any and all  
 3 available remedies to the extent permissible including recovery of interest, attorneys' fees and  
 4 costs, and liquidated damages relating to any unpaid overtime wages under California Labor  
 5 Code §§1194 and 1194.2. Further, Plaintiff and members of the RSC Waiting Time Sub Class  
 6 who have not been paid timely within the statutory period set forth in California Labor Code  
 7 §§201 and 202 are entitled to and seek recovery of penalties under California Labor Code §203.

### 8                                   **THIRD CAUSE OF ACTION**

#### 9                   **Class Claim for Violation of California Labor Code §226.7(b) Against All Defendants** 10                                   **(Rest Period Claim)**

11           47. Plaintiff repeats and incorporates herein by reference each and every allegation  
 12 contained above, as though fully set forth herein.

13           48. California Labor Code §226.7(b) makes it unlawful for an employer to require  
 14 any employee to work during any paid rest period mandated by an applicable California IWC  
 15 Wage Order. California Labor Code §1198 additionally makes it unlawful to employ persons  
 16 under conditions prohibited by a Wage Order. The "Rest Periods" section of the applicable  
 17 Wage Order provides the following in relevant part:

18           Every employer shall authorize and permit all employees to take rest periods,  
 19 which insofar as practicable shall be in the middle of each work period. The  
 20 authorized rest period time shall be based on the total hours worked daily at the  
 21 rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.  
 22 However, a rest period need not be authorized for employees whose total daily  
 work time is less than three and one-half (3½) hours. Authorized rest period time  
 shall be counted, as hours worked for which there shall be no deduction from  
 wages.

23           49. California Labor Code §226.7(c) provides that an employer shall pay an employee  
 24 one additional hour of pay at the employee's regular rate of compensation for each workday that  
 25 the rest period is not provided.

26           50. During times relevant, Defendants failed to pay the appropriate payment under  
 27 California Labor Code §226.7(c) because Defendants, if and when paid, paid the additional hour  
 28 not at the employee's true regular rate of compensation, but rather used the employee's base rate

1 compensation not taking into account other compensation that forms the regular rate of  
2 compensation such as commissions and incentive pay.

3 51. For this violation, Plaintiff and members of the RSC Class are entitled to and seek  
4 one hour of premium pay at the employees' true regular rate of compensation for each day in  
5 which a paid rest period was not authorized and permitted, and further seek recovery of any and  
6 all available remedies to the extent permissible including recovery of interest, attorneys' fees, and  
7 costs.

#### 8 **FOURTH CAUSE OF ACTION**

##### 9 **Class Claim for Violations of California Labor Code §§226.7(b) Against All Defendants** 10 **(Meal Period Claim)**

11 52. Plaintiff repeats and incorporates herein by reference each and every allegation  
12 contained above, as though fully set forth herein.

13 53. California Labor Code §226.7(b) makes it unlawful for an employer to require  
14 any employee to work during any meal period mandated by an applicable California IWC Wage  
15 Order. California Labor Code §1198 additionally makes it unlawful to employ persons under  
16 conditions prohibited by a Wage Order. The "Meal Periods" section of the applicable Wage  
17 Order provides the following in relevant part:

18 No employer shall employ any person for a work period of more than five (5)  
19 hours without a meal period of not less than 30 minutes, except that when a work  
20 period of not more than six (6) hours will complete the day's work the meal period  
21 may be waived by mutual consent of the employer and employee. Unless the  
22 employee is relieved of all duty during a 30 minute meal period, the meal period  
23 shall be considered an "on duty" meal period and counted as time worked. An  
24 "on duty" meal period shall be permitted only when the nature of the work  
25 prevents an employee from being relieved of all duty and when by written  
26 agreement between the parties an on-the-job paid meal period is agreed to. The  
27 written agreement shall state that the employee may, in writing, revoke the  
28 agreement at any time.... If an employer fails to provide an employee a meal  
period in accordance with the applicable provisions of this order, the employer  
shall pay the employee one (1) hour of pay at the employee's regular rate of  
compensation for each work day that the meal period is not provided.

54. California Labor Code §226.7(c) provides that an employer shall pay an employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided.

55. During times relevant, Defendants failed to pay the appropriate payment under California Labor Code §226.7(c) because Defendants, if and when paid, paid the additional hour not at the employee's true regular rate of compensation, but rather used the employee's base rate compensation not taking into account other compensation that forms the regular rate of compensation such as commissions and incentive pay.

56. For this violation, Plaintiff and members of the RSC Class are entitled to and seek one hour of premium pay at the employees' true regular rate of compensation for each day in which a meal period was provided, and further seek recovery of any and all available remedies to the extent permissible including recovery of interest, attorneys' fees, and costs.

#### **FIFTH CAUSE OF ACTION**

#### **Class Claim for Violations of California Labor Code §§201 and 202 Against All Defendants (For Failure to Pay Wages Owed on Separation of Employment)**

57. Plaintiff repeats and incorporates herein by reference each and every allegation contained above, as though fully set forth herein.

58. California Labor Code §§201 and 202 require an employer who discharges an employee to pay compensation due and owing to said employee immediately upon discharge and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two hours thereafter, unless the employee has given seventy-two hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages on their last day of work. California Labor Code §203 provides that if an employer willfully fails to pay compensation promptly upon discharge, as required by California Labor Code §§201 and 202, the employer is liable for waiting time penalties in the form of continued compensation for up to thirty work days.

59. During the relevant time period and through its conduct including that alleged herein, Defendants willfully failed and refused, and continue to willfully fail and refuse, to pay

1 Plaintiff and members of the RSC Waiting Time Sub Class their wages, earned and unpaid,  
 2 either at the time of discharge, or within seventy-two hours of their voluntarily leaving  
 3 Defendants' employ. Premium, regular, and minimum wages were improperly unpaid, but upon  
 4 separation, Defendants also failed to pay earned and calculable wages due and owing within the  
 5 time frame specified by California Labor Code §§201 and 202.

6 60. Defendants' willful failure to pay Plaintiff and RSC Waiting Time Sub Class  
 7 members their wages earned and unpaid at the time of discharge, or within seventy-two hours of  
 8 their voluntarily leaving Defendants' employ, violates California Labor Code §§201 and 202, as  
 9 applicable. As a result, Defendants are liable to Plaintiff and members of the RSC Waiting Time  
 10 Sub Class for waiting time penalties under California Labor Code §203, in an amount according  
 11 to proof at the time of trial.

#### 12 **SIXTH CAUSE OF ACTION**

#### 13 **Class Claim for Violation of California Labor Code §226(a) Against All Defendants** 14 **(Pay Stub Claim)**

15 61. Plaintiff repeats and incorporates herein by reference each and every allegation  
 16 contained above, as though fully set forth herein.

17 62. California Labor Code §226(a) sets forth reporting requirements for employers  
 18 when they pay wages. In relevant part, it states:

19 Every employer shall ... at the time of each payment of wages, furnish each of his  
 20 or her employees ... an accurate itemized statement in writing showing (1) gross  
 21 wages earned, (2) total hours worked by the employee, except for any employee  
 22 whose compensation is solely based on a salary and who is exempt from payment  
 23 of overtime under subdivision (a) of Section 515 or any applicable order of the  
 24 Industrial Welfare Commission, (3) the number of piece-rate units earned and any  
 25 applicable piece rate if the employee is paid on a piece-rate basis, (4) all  
 26 deductions, provided that all deductions made on written orders of the employee  
 27 may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive  
 28 dates of the period for which the employee is paid, (7) the name of the employee  
 and only the last four digits of his or her social security number or an employee  
 identification number other than a social security number, (8) the name and  
 address of the legal entity that is the employer ..., and (9) all applicable hourly  
 rates in effect during the pay period and the corresponding number of hours  
 worked at each hourly rate by the employee....

California Labor Code §226(e) provides:

1 An employee suffering injury as a result of a knowing and intentional failure by  
2 an employer to comply with subdivision (a) is entitled to recover the greater of all  
3 actual damages or fifty dollars (\$50) for the initial pay period in which a violation  
4 occurs and one hundred dollars (\$100) per employee for each violation in a  
subsequent pay period, not to exceed an aggregate penalty of four thousand  
dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's  
fees.

5 California Labor Code §226(e)(2)(B) provides:

6 An employee is deemed to suffer injury for purposes of this subdivision if the  
7 employer fails to provide accurate and complete information as required by any  
8 one or more of items (1) to (9), inclusive, of subdivision (a) and the employee  
9 cannot promptly and easily determine from the wage statement alone one or more  
10 of the following: (i) The amount of the gross wages or net wages paid to the  
11 employee during the pay period or any of the other information required to be  
12 provided on the itemized wage statement pursuant to items (2) to (4), inclusive,  
13 (6), and (9) of subdivision (a)[;] (ii) Which deductions the employer made from  
14 gross wages to determine the net wages paid to the employee during the pay  
15 period. Nothing in this subdivision alters the ability of the employer to aggregate  
16 deductions consistent with the requirements of item (4) of subdivision (a)[;] (iii)  
The name and address of the employer and, if the employer is a farm labor  
contractor, as defined in subdivision (b) of Section 1682, the name and address of  
the legal entity that secured the services of the employer during the pay period[;  
and] (iv) The name of the employee and only the last four digits of his or her  
social security number or an employee identification number other than a social  
security number.

17 63. During the relevant time frame, Defendants knowingly and intentionally failed,  
18 and continue to fail, to provide Plaintiff and other members of Pay Stub Class with wage  
19 statements that contained the information required by California Labor Code §226(a). The wage  
20 statements Defendants have provided to Plaintiff and other employees in Pay Stub Class fail to,  
21 among other things, on their face correctly state the work dates for which payments are being  
22 paid including overtime wages, commissions, and adjustments, and accurately itemize the total  
23 hours worked and all applicable hourly rates in effect during the pay period and the  
24 corresponding number of hours worked at each hourly rate in effect each pay period. For  
25 example, the wage statements, on their face, fail to identify a rate of pay, hours worked, and time  
26 periods for "true up payments" and "additional adjustments;" fail to have corresponding time  
27 periods listed for each time period that non-base payments are being made such as overtime and  
28 commissions; fail to accurately itemize the total hours worked; and fail to accurately state the

1 rate of pay for meal and rest premiums in that the premium payments are not based on the  
2 employees' true regular rate of pay but rather only their base pay. Additionally, the wage  
3 statements fail to accurately itemize hours worked and gross and net wages earned in that for  
4 RSC Class members, the wage statements omit some hours worked and wages earned as a result  
5 of these employees' not being paid for all time spent working while waiting for procedures to be  
6 completed for electronic devices and closing. Furthermore, the wage statements omit required  
7 information about the employer legal entities in that the wage statements identify AT&T  
8 Mobility Services LLC as the employer but fail to identify AT&T Mobility LLC as an employer.  
9 AT&T Mobility LLC is identified in a Labor Agreement between AT&T Mobility LLC and the  
10 Communication Workers of America as an employer of persons covered by that agreement.

11 64. Plaintiff and other Pay Stub Class members have been injured, as defined by  
12 California Labor Code §226, by these omissions and inaccuracies.

13 65. Defendants knowingly and intentionally failed, and continue to fail, to furnish  
14 Plaintiff and Pay Stub Class members complete and accurate wage statements upon each  
15 payment of wages in violation of California Labor Code §226(a). Plaintiff and Pay Stub Class  
16 members have been injured and damaged by these failures because, among other things, it  
17 renders them unable to determine whether Defendants properly recorded their hours worked and  
18 makes it impossible to tell whether they were properly compensated for all pay earned at the  
19 proper rates and during the applicable pay period. Plaintiff and, on information and belief, Pay  
20 Stub Class members are required to engage in discovery and mathematical computations to  
21 reconstruct their time records to determine if they were paid correctly as a result of the inaccurate  
22 and/or incomplete wage statements. Plaintiff and, on information and belief, Pay Stub Class  
23 members cannot easily ascertain from the information provided to them through the wage  
24 statements whether his or her wages and hours have been calculated correctly. Accordingly,  
25 Plaintiff and, on information and belief, Pay Stub Class members cannot promptly and easily  
26 determine from the wage statement alone the information set forth in California Labor Code  
27 §226(e)(2)(B) to assure that he or she is not being underpaid and have had to refer to other  
28 documents and information to attempt to ascertain this information.

67. AT&T Mobility moreover failed to permit Plaintiff to inspect or copy wage statement records within the time set forth in subdivision (c) of California Labor Code §226, entitling Plaintiff recover a \$750 penalty from the employer as set forth in California Labor Code §226(f). On information and belief, AT&T Mobility LLC have refused others in the Pay Stub Class their right under California Labor Code §226(c), entitling said employees to recover a \$750 penalty from the employer as set forth in California Labor Code §226(f).

68. Plaintiff and Pay Stub Class members are entitled to and seek any and all available remedies to the extent permissible including injunctive relief and recovery of all available statutory damages, penalties, interest, attorneys' fees, and costs pursuant to California Labor Code §226(e) and (h).

**Class Claim for Unfair Competition Against All Defendants  
(Unfair Competition Claim)**

69. Plaintiff repeats and incorporates herein by reference each and every allegation contained above, as though fully set forth herein.

70. Defendants' conduct, as alleged in this Complaint, has been, and continues to be, unfair, unlawful, and harmful to Plaintiff and members of the RSC Class, Defendants' competitors, and the general public. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of California Code of Civil Procedure §1021.5.

71. Defendants' policies, activities, and actions as alleged herein are violations of California law and constitute unlawful business acts and practices in violation of California Business and Professions Code §§17200, *et seq.*

72. A violation of California Business and Professions Code §§17200, *et seq.*, may be predicated on the violation of any state or federal law. In the instant case, Defendants' policies

1 and practices of not paying proper wages, and not providing compliant additional hours of pay  
 2 for meal and rest premiums, among the other statutory violations alleged herein, over the past  
 3 four years violates California Labor Code §§226.7, 510, 1197, and 1198 among other statutes.

4 73. Plaintiff and members of the RSC Class have been personally aggrieved and  
 5 injured by Defendants' unlawful and unfair business acts and practices alleged herein by the loss  
 6 of money and/or property.

7 74. Pursuant to California Business and Professions Code §§17200, *et seq.*, Plaintiff  
 8 and members of the RSC Class are entitled to restitution of the wages withheld and retained by  
 9 Defendants during a period that commences four years prior to the filing of this Complaint, an  
 10 award of attorneys' fees pursuant to California Code of Civil Procedure §1021.5, and an award of  
 11 costs.

#### 12 **PAGA ACTION CLAIMS**

#### 13 **EIGHTH CAUSE OF ACTION**

#### 14 **For Violation of California Labor Code §1197 Brought Under PAGA** 15 **Against AT&T Mobility by Plaintiff on a Private Attorneys General Basis** 16 **(PAGA Minimum Wage Claim)**

17 75. Plaintiff repeats and incorporates herein by reference each and every allegation  
 18 contained above, as though fully set forth herein.

19 76. During the year immediately preceding the date of Plaintiff's PAGA exhaustion  
 20 letter, AT&T Mobility paid to Plaintiff and other of AT&T Mobility's current and former  
 21 employees a less wage than the minimum fixed by the IWC in the "Minimum Wages" section of  
 22 the applicable California IWC Wage Order. By doing so, AT&T Mobility violated California  
 23 Labor Code §1197.

24 77. PAGA, specifically California Labor Code §2699(a), allows Plaintiff to recover  
 25 civil penalties for the violation of provisions of the California Labor Code that contain their own  
 26 civil penalties. California Labor Code §§1197.1 and 2699 contain the civil penalties collectable  
 27 under the PAGA for violation of California Labor Code §1197. Accordingly, Plaintiff seeks the  
 28

1 civil penalties permitted through California Labor Code §§1197.1 and 2699 for AT&T Mobility's  
2 violation of California Labor Code §1197.

3 78. Plaintiff requests penalties against AT&T Mobility for its violation of California  
4 Labor Code §1197 as provided under PAGA, plus reasonable attorneys' fees and costs, in  
5 amounts to be proven at trial.

6 **NINTH CAUSE OF ACTION**

7 **For Violation of California Labor Code §510 Brought Under PAGA**  
8 **Against AT&T Mobility by Plaintiff on a Private Attorneys General Basis**  
9 **(PAGA Overtime Claim)**

10 79. Plaintiff repeats and incorporates herein by reference each and every allegation  
11 contained above, as though fully set forth herein.

12 80. AT&T Mobility failed to pay required overtime compensation in accordance with  
13 California Labor Code §510.

14 81. During the year immediately preceding the date of Plaintiff's PAGA exhaustion  
15 letter, AT&T Mobility failed to compensate Plaintiff and other California current and former  
16 employees a proper overtime rate for hours worked in excess of eight in a day or forty in a week.

17 82. PAGA, specifically California Labor Code §2699(a), allows Plaintiff to recover  
18 civil penalties for the violation of provisions of the California Labor Code that contain their own  
19 civil penalties. California Labor Code §§558 and 2699 contain the civil penalties collectable  
20 under the PAGA for violation of California Labor Code §510. Accordingly, Plaintiff seeks the  
21 civil penalties permitted through California Labor Code §§558 and 2699 for AT&T Mobility's  
22 violation of California Labor Code §510.

23 83. Plaintiff requests penalties against AT&T Mobility for its violation of California  
24 Labor Code §510 as provided under PAGA, plus reasonable attorneys' fees and costs, in amounts  
25 to be proven at trial.

**TENTH CAUSE OF ACTION**

**For Violation of California Labor Code §226.7(b) Brought Under PAGA  
Against AT&T Mobility by Plaintiff on a Private Attorneys General Basis  
(PAGA Rest Period Claim)**

84. Plaintiff repeats and incorporates herein by reference each and every allegation contained above, as though fully set forth herein.

85. During the year immediately preceding the date of Plaintiff's PAGA exhaustion letter, AT&T Mobility failed to authorize and permit paid rest periods to Plaintiff and other of AT&T Mobility's California current and former employees in violation of the "Rest Periods" section of the applicable California IWC Wage Order. By failing to authorize and permit paid rest periods to Plaintiff and other of AT&T Mobility's California current and former employees in violation of the "Rest Periods" section of the applicable California IWC Wage Order, AT&T Mobility violated California Labor Code §226.7(b).

86. PAGA, specifically California Labor Code §2699(a), allows Plaintiff to recover civil penalties for the violation of provisions of the California Labor Code that contain their own civil penalties. California Labor Code §§558 and 2699 contain the civil penalties collectable under the PAGA for violation of California Labor Code §226.7(b). Accordingly, Plaintiff seeks the civil penalties permitted through California Labor Code §§558 and 2699 for AT&T Mobility's violation of California Labor Code §226.7(b).

87. Plaintiff requests penalties against AT&T Mobility for its violation of California Labor Code §226.7(b) as provided under PAGA, plus reasonable attorneys' fees and costs, in amounts to be proven at trial.

**ELEVENTH CAUSE OF ACTION**

**For Violations of California Labor Code §§226.7(b) and 512 Brought Under PAGA  
Against AT&T Mobility by Plaintiff on a Private Attorneys General Basis  
(PAGA Meal Period Claim)**

88. Plaintiff repeats and incorporates herein by reference each and every allegation contained above, as though fully set forth herein.

1           89.       During the year immediately preceding the date of Plaintiff's PAGA exhaustion  
 2 letter, AT&T Mobility failed to authorize and provide first and, when applicable, second meal  
 3 periods to Plaintiff and other of AT&T Mobility's California current and former employees in  
 4 violation of the "Meal Periods" section of the applicable California IWC Wage Order and §512  
 5 of the California Labor Code. By failing to authorize and provide meal periods to Plaintiff and  
 6 other of AT&T Mobility's California current and former employees, AT&T Mobility violated  
 7 California Labor Code §§226.7(b) and 512.

8           90.       PAGA, specifically California Labor Code §2699(a), allows Plaintiff to recover  
 9 civil penalties for the violation of provisions of the California Labor Code that contain their own  
 10 civil penalties. California Labor Code §§558 and 2699 contain the civil penalties collectable  
 11 under the PAGA for violation of California Labor Code §§226.7(b) and 512. Accordingly,  
 12 Plaintiff seeks the civil penalties permitted through California Labor Code §§558 and 2699 for  
 13 AT&T Mobility's violations of California Labor Code §§226.7(b) and 512.

14           91.       Plaintiff requests penalties against AT&T Mobility for its violations of California  
 15 Labor Code §§226.7(b) and 512, as provided under PAGA, plus reasonable attorneys' fees and  
 16 costs, in amounts to be proven at trial.

#### 17                               **TWELFTH CAUSE OF ACTION**

#### 18                   **For Violations of California Labor Code §§201, 202, and 203 Brought Under PAGA** 19                   **Against AT&T Mobility by Plaintiff on a Private Attorneys General Basis** 20                   **(PAGA §§201-203 Claim)**

21           92.       Plaintiff repeats and incorporates herein by reference each and every allegation  
 22 contained above, as though fully set forth herein.

23           93.       During the year immediately preceding the date of Plaintiff's PAGA exhaustion  
 24 letter, AT&T Mobility failed to pay Plaintiff and other California current and former employees  
 25 whose employment had separated all wages due and owing by the times set forth in California  
 26 Labor Code §§201-202, as applicable. AT&T Mobility further failed to pay the waiting time  
 27 penalties as set forth in California Labor Code §203 to Plaintiff and other California current and  
 28 former employees whose employment had separated.

1           94.       PAGA, specifically California Labor Code §2699(a), allows Plaintiff to recover  
 2 civil penalties for the violation of provisions of the California Labor Code that contain their own  
 3 civil penalties. California Labor Code §§256 and 2699 contain the civil penalties collectable  
 4 under the PAGA for violation of California Labor Code §203. California Labor Code  
 5 §2699(f)(2) provides that "[i]f, at the time of the alleged violation, the person employs one or  
 6 more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per  
 7 pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee  
 8 per pay period for each subsequent violation." California Labor Code §§201-202 do not provide  
 9 their own civil penalties. Because AT&T Mobility is an employer that currently employs one or  
 10 more employees, the civil penalties set forth in California Labor Code §2699(f)(2) apply to each  
 11 of AT&T Mobility's violations of California Labor Code §§201-202. Accordingly, Plaintiff  
 12 seeks the civil penalties permitted through California Labor Code §§256 and 2699 for AT&T  
 13 Mobility's violation of California Labor Code §§201-203.

14           95.       Plaintiff requests penalties against AT&T Mobility for its violation of California  
 15 Labor Code §§201-202 as provided under PAGA, plus reasonable attorneys' fees and costs, in  
 16 amounts to be proven at trial.

### 17                               **THIRTEENTH CAUSE OF ACTION**

#### 18                               **For Violation of California Labor Code §226(a) Brought Under PAGA** 19                               **Against AT&T Mobility by Plaintiff on a Private Attorneys General Basis** 20                               **(PAGA Pay Stub Claim)**

21           96.       Plaintiff repeats and incorporates herein by reference each and every allegation  
 22 contained above, as though fully set forth herein.

23           97.       California Labor Code §226(a) sets forth the following reporting requirements for  
 24 employers when they pay wages:

25           Every employer shall ... at the time of each payment of wages, furnish each of  
 26 his or her employees ... an accurate itemized statement in writing showing (1)  
 27 gross wages earned, (2) total hours worked by the employee, except for any  
 28 employee whose compensation is solely based on a salary and who is exempt  
 from payment of overtime under subdivision (a) of Section 515 or any applicable  
 order of the Industrial Welfare Commission, (3) the number of piece-rate units

1 earned and any applicable piece rate if the employee is paid on a piece-rate basis,  
 2 (4) all deductions, provided that all deductions made on written orders of the  
 3 employee may be aggregated and shown as one item, (5) net wages earned, (6)  
 4 the inclusive dates of the period for which the employee is paid, (7) the name of  
 5 the employee and only the last four digits of his or her social security number or  
 6 an employee identification number other than a social security number statement,  
 7 (8) the name and address of the legal entity that is the employer..., and (9) all  
 8 applicable hourly rates in effect during the pay period and the corresponding  
 9 number of hours worked at each hourly rate by the employee.... The deductions  
 10 made from payments of wages shall be recorded in ink or other indelible form,  
 11 properly dated, showing the month, day, and year, and a copy of the statement  
 12 and the record of the deductions shall be kept on file by the employer for at least  
 13 three years at the place of employment or at a central location within the State of  
 14 California.

15 98. During the year immediately preceding the date of Plaintiff's PAGA exhaustion  
 16 letter, AT&T Mobility furnished Plaintiff and other California current and former employees,  
 17 regardless of position, and continues to furnish many of its other California employees with  
 18 wage statements that violate the requirements of California Labor Code §226(a) through its  
 19 omission of certain required information and/or inaccurate reporting of required information.

20 99. PAGA, specifically California Labor Code §2699(a), allows Plaintiff to recover  
 21 civil penalties for the violation of provisions of the California Labor Code that contain their own  
 22 civil penalties. California Labor Code §2699 contains the civil penalties for violation of  
 23 California Labor Code §226(a). Accordingly, Plaintiff seeks the civil penalties set forth in  
 24 California Labor Code §2699 for AT&T Mobility's violation of California Labor Code §226(a).

25 100. Plaintiff requests penalties against AT&T Mobility for its violation of California  
 26 Labor Code §226(a) as provided under PAGA, plus reasonable attorneys' fees and costs, in  
 27 amounts to be proven at trial.

#### 28 **FOURTEENTH CAUSE OF ACTION**

#### **For Violation of California Labor Code §204 Brought Under PAGA Against AT&T Mobility by Plaintiff on a Private Attorneys General Basis (PAGA §204 Claim)**

101. Plaintiff repeats and incorporates herein by reference each and every allegation  
 contained above, as though fully set forth herein.

102. During the year immediately preceding the date of Plaintiff's PAGA exhaustion letter, AT&T Mobility failed to timely pay all wages timely in accordance with California Labor Code §204 to Plaintiff and other of AT&T Mobility's California current and former employees.

103. PAGA, specifically California Labor Code §2699(a), allows Plaintiff to recover civil penalties for the violation of provisions of the California Labor Code that contain their own civil penalties. California Labor Code §§210 and 2699 contain the civil penalties for violation of California Labor Code §204. Accordingly, Plaintiff seeks the civil penalties set forth in California Labor Code §§210 and 2699 for AT&T Mobility's violation of California Labor Code §204.

104. Plaintiff requests penalties against AT&T Mobility for its violation of California Labor Code §204 as provided under PAGA, plus reasonable attorneys' fees and costs, in amounts to be proven at trial.

#### **FIFTEENTH CAUSE OF ACTION**

#### **For Violation of California Labor Code §1198 Brought Under PAGA Against AT&T Mobility by Plaintiff on a Private Attorneys General Basis (PAGA §1198 Claim)**

105. Plaintiff repeats and incorporates herein by reference each and every allegation contained above, as though fully set forth herein.

106. California Labor Code §1198 provides that "[t]he employment of any employee ... under conditions of labor prohibited by the [wage] order is unlawful."

107. During the year immediately preceding the date of Plaintiff's PAGA exhaustion letter, AT&T Mobility violated California Labor Code §1198 by failing to pay proper minimum wages to Plaintiff and other of AT&T Mobility's current and former employees, in violation of the "Minimum Wages" section of the applicable California IWC Wage Order.

108. During the year immediately preceding the date of Plaintiff's PAGA exhaustion letter, AT&T Mobility violated California Labor Code §1198 by failing to pay proper overtime wages to Plaintiff and other of AT&T Mobility's current and former employees, in violation of the "Hours and Days of Work" section of the applicable California IWC Wage Order.

1           109.     During the year immediately preceding the date of Plaintiff's PAGA exhaustion  
2 letter, AT&T Mobility violated California Labor Code §1198 by failing to authorize and permit  
3 compliant paid rest periods to Plaintiff and other of AT&T Mobility's current and former  
4 employees, in violation of the "Rest Periods" section of the applicable California IWC Wage  
5 Order.

6           110.     During the year immediately preceding the date of Plaintiff's PAGA exhaustion  
7 letter, AT&T Mobility violated California Labor Code §1198 by failing to provide compliant  
8 meal periods to Plaintiff and other of AT&T Mobility's current and former employees, in  
9 violation of the "Meal Periods" section of the applicable California IWC Wage Order.

10          111.     During the year immediately preceding the date of Plaintiff's PAGA exhaustion  
11 letter, AT&T Mobility violated California Labor Code §1198 by failing to provide and maintain  
12 compliant wage statements and records for Plaintiff and other of AT&T Mobility's current and  
13 former employees, regardless of job position, in violation of the "Records" section of the  
14 applicable California IWC Wage Order.

15          112.     PAGA, specifically California Labor Code §2699(f), establishes a civil penalty  
16 to be levied against California employers for violations of California Labor Code provisions that  
17 do not contain their own civil penalties. California Labor Code §2699(f)(2) provides that "[i]f, at  
18 the time of the alleged violation, the person employs one or more employees, the civil penalty is  
19 one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation  
20 and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent  
21 violation." California Labor Code §1198 does not provide its own civil penalties. Because  
22 AT&T Mobility is an employer that currently employs one or more employees, the civil  
23 penalties set forth in California Labor Code §2699(f)(2) apply to each of AT&T Mobility's  
24 violations of California Labor Code §1198.

25          113.     Plaintiff requests penalties against AT&T Mobility for its violation of California  
26 Labor Code §1198 as provided under PAGA, plus reasonable attorneys' fees and costs, in  
27 amounts to be proved at trial.

28

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff requests entry of judgment, on behalf of herself and the other  
3 California employees, against each defendant, jointly and severally, as follows:

4 **Class Certification**

- 5 1. That this action be certified as a class action;
- 6 2. That Plaintiff be appointed as the representative of the Pay Stub Class, the RSC  
7 Class, and the RSC Waiting Time Sub Class; and
- 8 3. That counsel for Plaintiff be appointed as counsel for the Pay Stub Class, the RSC  
9 Class, and the RSC Waiting Time Sub Class.

10 **On the First and Second Causes of Action**

- 11 1. For repayment of wages and liquidated damages, under the First and Second  
12 Causes of Action, to Plaintiff and members of the RSC Class under California Labor Code  
13 §§1194 and 1194.2 according to proof and to the extent permissible;
- 14 2. For payment of penalties to Plaintiff and members of the RSC Waiting Time Sub  
15 Class under California Labor Code §203 according to proof and to the extent permissible;
- 16 3. For pre-judgment interest on any unpaid wages due from the day that such  
17 amounts were due under California Labor Code §1194;
- 18 4. For reasonable attorneys' fees that Plaintiff and members of the RSC Class are  
19 entitled to recover under California Labor Code §1194;
- 20 5. For costs of suit incurred herein that Plaintiff and members of the RSC Class are  
21 entitled to recover under California Labor Code §1194; and
- 22 6. For such other and further relief as the Court deems proper.

23 **On the Third and Fourth Causes of Action**

- 24 1. For statutory premium wages to Plaintiff and members of the RSC Class under  
25 California Labor Code §226.7(c) according to proof;
- 26 2. For reasonable attorneys' fees and costs of suit pursuant to California Code of  
27 Civil Procedure §1021.5;
- 28

1           3.     For pre-judgment interest on any unpaid wages due from the day that such  
2 amounts were due; and

3           4.     For such other and further relief as the Court deems proper.

4                               On the Fifth Cause of Action

5           1.     For penalties according to proof under California Labor Code §203 to Plaintiff  
6 and members of the RSC Waiting Time Sub Class;

7           2.     For reasonable attorneys' fees;

8           3.     For costs of suit incurred herein; and

9           4.     For such other and further relief as the Court deems proper.

10                           On the Sixth Cause of Action

11          1.     For penalties and damages according to proof under California Labor Code  
12 §226(e) to Plaintiff and Pay Stub Class members;

13          2.     For injunctive relief under California Labor Code §226(h);

14          3.     For reasonable attorneys' fees;

15          4.     For costs of suit incurred herein; and

16          5.     For such other and further relief as the Court deems proper.

17                           On the Seventh Cause of Action

18          1.     That Defendants, jointly and/or severally, pay restitution and/or disgorgement of  
19 sums to Plaintiff and members of the RSC Class for their failures to pay all minimum wages over  
20 the last four years in an amount according to proof;

21          2.     That Defendants, jointly and/or severally, pay restitution and/or disgorgement of  
22 sums to Plaintiff and members of the RSC Class for their failures to pay all overtime wages over  
23 the last four years in an amount according to proof;

24          3.     That Defendants, jointly and/or severally, pay restitution and/or disgorgement of  
25 sums to Plaintiff and members of the RSC Class for their failures to pay all wages due and owing  
26 over the last four years as in an amount according to proof;

27          4.     That Defendants, jointly and/or severally, pay restitution and/or disgorgement of  
28 sums to Plaintiff and members of the RSC Class for their failures to pay correct premium wages

1 for rest periods that were not authorized and permitted over the last four years in an amount  
2 according to proof;

3 5. That Defendants, jointly and/or severally, pay restitution and/or disgorgement of  
4 sums to Plaintiff and members of the RSC Class for their failures to pay correct premium wages  
5 for meal periods that were not provided over the last four years in an amount according to proof;

6 6. For pre-judgment interest on any unpaid wages due from the day that such  
7 amounts were due;

8 7. For reasonable attorneys' fees that Plaintiff and members of the RSC Class are  
9 entitled to recover under California Labor Code §§218.5 and 1194, and California Code of Civil  
10 Procedure §1021.5;

11 8. For costs of suit incurred herein that Plaintiff and members of the RSC Class are  
12 entitled to recover under California Labor Code §§218.5 and 1194; and

13 9. For such other and further relief as the Court deems proper.

14 On the Eighth Through Fifteenth Causes of Action

15 1. For penalties according to proof;

16 2. For reasonable attorneys' fees and costs; and

17 3. For such other and further relief as the Court deems proper.

18 **DEMAND FOR JURY TRIAL**

19 Plaintiff requests a jury trial in this matter.

20 Dated: June 4, 2014

ROBBINS ARROYO LLP  
THE DENTE LAW FIRM

22 By: /s/Diane E. Richard

DIANE E. RICHARD  
Attorneys for Plaintiff Tran K. Ly

26 959851

# **Exhibit A**



600 B Street, Suite 1900  
San Diego, CA 92101  
619.525.3990 phone  
619.525.3991 fax  
www.robbsinarroyo.com

April 30, 2014

**VIA U.S. CERTIFIED MAIL RETURN RECEIPT REQUESTED**

CALIFORNIA LABOR AND WORKFORCE  
DEVELOPMENT AGENCY  
Attn. PAGA Administrator  
455 Golden Gate Avenue, 9th Floor  
San Francisco, CA 94102

AT&T MOBILITY SERVICES LLC  
c/o C T Corporation System, Agent for Service  
of Process  
675 W. Peachtree Street NW, Suite 2756  
Atlanta, GA 30308

AT&T MOBILITY LLC  
c/o C T Corporation System, Agent for Service  
of Process  
675 W. Peachtree Street, Suite 42-090  
Atlanta, GA 30375-0001

**Re: Notice of Claims/Labor Code Private Attorneys General Act of 2004,  
California Labor Code §2698, et seq.**

**To:** California Labor and Workforce Development Agency, AT&T Mobility Services LLC, and  
AT&T Mobility LLC

The Dente Law Firm and Robbins Arroyo LLP represent Tran K. Ly, a former employee at AT&T Mobility Services LLC, and AT&T Mobility LLC (collectively "AT&T Mobility") in San Diego, California. This letter is intended to constitute notice of claims, including notice pursuant to the California Labor Code Private Attorneys General Act of 2004, California Labor Code §2698, *et seq.* ("PAGA") that Ms. Ly intends to bring a civil action for penalties under PAGA for California Labor Code violations committed by AT&T Mobility against Ms. Ly and other current and/or former AT&T Mobility employees in California. Ms. Ly's PAGA action involves AT&T Mobility's violations of sections 201, 202, 203, 204, 226(a), 226.7, 510, 512, 1197, and 1198 of the California Labor Code.

**AT&T Mobility's Violation of Sections 226(a) and 1198<sup>1</sup>:** Section 226(a) states in pertinent part that: "Every employer shall ... at the time of each payment of wages, furnish each of his or her employees ... an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee ..., (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions ..., (5) net

---

<sup>1</sup> "Section \_\_\_\_" or "Sections \_\_\_\_" refers to the California Labor Code, unless otherwise noted.

Notice of Claims  
April 30, 2014  
Page 2

wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number ..., (8) the name and address of the ... employer ..., and (9) all applicable hourly rates in effect during the pay period ...." Additionally, the "Records" section of the applicable California Industrial Welfare Commission ("IWC") Wage Order ("Wage Order") requires accurate recordkeeping including records relating to time and pay.

During at least the year immediately preceding the date of this letter, Ms. Ly and other AT&T Mobility employees were issued itemized wage statements that did not comply with the requirements under either Section 226(a), or under the requirements of the "Records" section of the applicable IWC Wage Order, a violation of Section 1198. The wage statements provided to Ms. Ly and other employees of AT&T Mobility on their face fail to, among other things, correctly state the work dates for which payments are being paid including overtime wages, commissions, and adjustments, and accurately itemize the total hours worked and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate in effect each pay period. For example, the wage statements on their face fail to identify a rate of pay, hours worked, and time periods for "true up payments" and "additional adjustments;" fail to have corresponding time periods listed for each time period that non-base payments are being made such as overtime and commissions; fail to accurately itemize the total hours worked; and fail to accurately state the rate of pay for meal and rest premiums in that the premium payments are not based on the employees' true regular rate of pay but rather only their base pay. Furthermore, the wage statements omit required information about the employer legal entities in that the wage statements identify AT&T Mobility Services LLC as the employer but fail to identify AT&T Mobility LLC as an employer. AT&T Mobility LLC is identified in a Labor Agreement between AT&T Mobility LLC and the Communication Workers of America as an employer of persons covered by that agreement. Additionally, the wage statements fail to accurately itemize hours worked and gross and net wages earned in that for AT&T Mobility employees who work as a non-exempt Retail Sales Consultant or equivalent position, the wage statements omit some hours worked and wages earned as a result of these employees not being paid for all time spent working while waiting for procedures to be completed for electronic devices and closing.

**AT&T Mobility's Violation of Section 204:**

During at least the year immediately preceding the date of this letter, AT&T Mobility failed to timely pay Ms. Ly and other California non-exempt AT&T Mobility employees all wages due during employment in accordance with Section 204's timing requirements through its unlawful practices of, including, but not limited to: (i) failing to timely pay for all time worked arising from time spent waiting for issuance and return of electronic devices (e.g., iPads) for work (for AT&T Mobility employees who work as a non-exempt Retail Sales Consultant or equivalent position); (ii) failing to timely pay for all time worked on closing shifts arising from time spent waiting to be released from work at the end of closing shifts as a result of procedures such as lock-up, closing up, and alarming procedures (for AT&T Mobility employees who work as a non-exempt Retail Sales Consultant or equivalent position); and (iii) failing to timely pay

Notice of Claims  
 April 30, 2014  
 Page 3

meal and rest premium wages at the true regular rate of pay which includes commissions, incentive pay, and other forms of compensation that is factored into the calculation of employees' regular rate of pay. Additionally, during at least the year immediately preceding the date of this letter, AT&T Mobility failed to comply with Section 204(b)(2)'s requirements concerning setting forth corrections on paystubs when it issues wage statements to Ms. Ly and other California non-exempt of AT&T Mobility.

**AT&T Mobility's Violation of Sections 1197 and 1198:**

Section 1197 provides that the payment of less than minimum wage is unlawful. Section 1198 provides that the standard conditions of labor fixed by the commission shall be the standard conditions of labor for employees. The "Minimum Wages" section of the applicable IWC Wage Order provides that every employer must pay to each employee on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the pay period whether the remuneration is measured by time, piece, commission, or otherwise. During at least the year immediately preceding the date of this letter, AT&T Mobility, among other things, with respect to AT&T Mobility employees who work as a non-exempt Retail Sales Consultant or equivalent position: (i) failed to pay for all time worked arising from time spent waiting for issuance and return of electronic devices (e.g. iPads) for work; and (ii) failed to pay for all time worked on closing shifts arising from time spent waiting to be released from work at the end of closing shifts as a result of procedures such as lock-up, closing up, and alarming procedures.

**AT&T Mobility's Violation of Sections 510 and 1198:**

AT&T Mobility is required to pay Ms. Ly and other California non-exempt AT&T Mobility employees overtime compensation in accordance with Section 510. Section 1198 provides that the standard conditions of labor fixed by the commission shall be the standard conditions of labor for employees. The "Hours and Days of Work" section of the applicable IWC Wage Order provides that an employer must pay non-exempt employees daily and weekly overtime. During at least the year immediately preceding the date of this letter, AT&T Mobility, among other things, with respect to AT&T Mobility employees who work as a non-exempt Retail Sales Consultant or equivalent position: (i) failed to pay for all time worked arising from time spent waiting for issuance and return of electronic devices (e.g., iPads) for work; and (ii) failed to pay for all time worked on closing shifts arising from time spent waiting to be released from work at the end of closing shifts as a result of procedures such as lock-up, closing up, and alarming procedures.

**AT&T Mobility's Violation of Sections 226.7 and 1198:**

Section 226.7(b) makes it unlawful for an employer to require any employee to work during any rest period mandated by the applicable IWC Wage Order, statute, regulation, standard, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health. Pursuant to "Rest Periods" section of the applicable IWC Wage Order,

~~"Every employer shall authorize and permit all employees to take rest periods, which insofar as~~

Notice of Claims  
April 30, 2014  
Page 4

practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 ½) hours. Authorized rest period time shall be counted, as hours worked, for which there shall be no deduction from wages." Section 1198 moreover makes it unlawful for an employer to violate the Rest Periods section of the applicable IWC Wage Order.

Section 226.7(c) provides that an employer shall pay an employee one additional hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided.

During at least the year immediately preceding the date of this letter, AT&T Mobility has failed to pay Ms. Ly and other AT&T Mobility employees who work as a non-exempt Retail Sales Consultant or equivalent position the appropriate payment under Section 226.7 because, if and when paid, AT&T Mobility paid the additional hour not at the employee's true regular rate of compensation but rather used the employee's base rate compensation not taking into account other compensation that forms the regular rate of compensation such as commissions and incentive pay. Furthermore, AT&T Mobility has further failed, as evidenced through any payment of any rest premium wages, to authorize and permit rest periods. As a result, AT&T Mobility has violated Sections 226.7 and 1198.

**AT&T Mobility's Violation of Sections 226.7, 512, and 1198:**

Section 512 and the "Meal Periods" section of the applicable IWC Wage Order provide that no employer shall employ an employee for a work period of more than five (5) hours without providing a meal break of not less than thirty (30) minutes in which the employee is relieved of all of his or her duties. Further, under Section 512 and the applicable IWC Wage Order, an employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than thirty (30) minutes, except that if the total hours worked is no more than twelve hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived. The "Records" section of the applicable IWC Wage Order requires an employer to keep accurate information with respect to each employee including time records showing when the employee begins and ends each work period and meal periods. Section 1198 makes it unlawful to employ persons under conditions prohibited by the applicable IWC Wage Order. Furthermore, Section 226.7(b) makes it unlawful for an employer to require any employee to work during any meal period mandated by the applicable IWC Wage Order.

Section 226.7(c) provides that an employer shall pay an employee one additional hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided.

During at least the year immediately preceding the date of this letter, AT&T Mobility has failed to pay Ms. Ly and other AT&T Mobility employees who work as a non-exempt Retail

Notice of Claims  
April 30, 2014  
Page 5

Sales Consultant or equivalent position the appropriate payment under Section 226.7 because, if and when paid, AT&T Mobility paid the additional hour not at the employee's true regular rate of compensation but rather used the employee's base rate compensation not taking into account other compensation that forms the regular rate of compensation such as commissions and incentive pay. Furthermore, AT&T Mobility has further failed to provide meal periods, as evidenced through the payment of any meal premium wages. As a result, AT&T Mobility has violated Sections 226.7, 512 and 1198.

**AT&T Mobility's Violations/Penalties Regarding Sections 201, 202, and 203:**

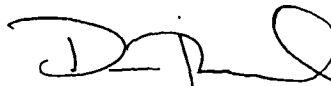
Sections 201 and 202 set forth the timing requirements for the payment of wages due upon an employee's separation of employment. Section 203 furthermore provides that a waiting time penalty must be paid should the timing requirements in Sections 201 or 202 not be complied with. AT&T Mobility did not pay Ms. Ly and other AT&T Mobility employees who work as a non-exempt Retail Sales Consultant or equivalent position all wages due by the times set forth in Sections 201 and 202 as applicable, including, but not limited to, regular, minimum, overtime, premium wages, and other forms of wages. Ms. Ly seeks civil penalties for these violations.

**Applicable PAGA Civil Penalty:**

PAGA, specifically Section 2699(a), permits an aggrieved employee to recover civil penalties set forth within the California Labor Code for violations of the California Labor Code. In addition, Section 2699(f) establishes civil penalties for violations of California Labor Code provisions that do not contain their own civil penalties. Ms. Ly intends to bring a civil action to recover civil penalties for the violations identified above, including civil penalties pursuant to Section 2699(f) as well as those civil penalties specifically set forth within the text of the California Labor Code. These penalties are sought for violations committed against Ms. Ly and other California AT&T Mobility employees as described herein.

Please feel free to contact the undersigned with any questions you may have.

Very truly yours,



Diane E. Richard

cc: Matthew S. Dente, Esq. (via e-mail)

**ELECTRONICALLY FILED**

Superior Court of California,  
County of San Diego

**04/30/2014 at 02:43:28 PM**

Clerk of the Superior Court  
By Bernice Orihuela, Deputy Clerk

1 ROBBINS ARROYO LLP  
BRIAN J. ROBBINS (SB# 190264)  
2 DIANE E. RICHARD (SB# 204897)  
600 B Street, Suite 1900  
3 San Diego, CA 92101  
Telephone: (619) 525-3990  
4 Facsimile: (619) 525-3991  
brobbins@robbinsarroyo.com  
5 drichard@robbinsarroyo.com

6 THE DENTE LAW FIRM  
MATTHEW S. DENTE (SB# 241547)  
7 600 B Street, Suite 1900  
San Diego, CA 92101  
8 Telephone: (619) 550-3475  
Facsimile: (619) 342-9668  
9 matt@dentelaw.com

10 Attorneys for Plaintiff Tran K. Ly

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 COUNTY OF SAN DIEGO

13 TRAN K. LY, Individually and on Behalf of  
Other Members of the Public Similarly  
14 Situated,

15 Plaintiff,

16 v.

17 AT&T MOBILITY SERVICES LLC,  
AT&T MOBILITY LLC, and  
DOES 1-10, Inclusive,

18 Defendants.  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Case No. 37-2014-00013854-CU-OE-CTL

**CLASS ACTION COMPLAINT FOR:**

- (1) **FAILURE TO PAY MINIMUM WAGES;**
- (2) **FAILURE TO PAY OVERTIME WAGES;**
- (3) **FAILURE TO AUTHORIZE AND PERMIT PAID REST PERIODS;**
- (4) **FAILURE TO PROVIDE MEAL PERIODS;**
- (5) **FAILURE TO PAY WAGES TIMELY UPON SEPARATION OF EMPLOYMENT;**
- (6) **FAILURE TO PROVIDE AND MAINTAIN COMPLIANT ITEMIZED WAGE STATEMENTS;**
- (7) **UNFAIR COMPETITION**

**DAMAGES EXCEED \$25,000**

**DEMAND FOR JURY TRIAL**

1 COMES NOW Plaintiff Tran K. Ly ("Plaintiff"), on behalf of herself and as a  
2 representative of employees of AT&T Mobility Services LLC and AT&T Mobility LLC  
3 (collectively, "AT&T Mobility") and Does 1-10, inclusive, (collectively, with AT&T Mobility,  
4 "Defendants") and asserts the following claims:

5 1. This is a class action brought for violations of the California Labor Code  
6 pertaining to the issuance and maintenance of noncompliant itemized wage statements, failure to  
7 pay proper meal and rest premiums at the true regular rate of pay, failure to pay all required  
8 wages for all time worked arising for the time periods employees spend waiting for the issuance  
9 and return of electronic devices (e.g., iPads) and for the time periods employees spend waiting to  
10 be released from work at the end of closing shifts, and for failure to pay all wages due and owing  
11 upon separation of employment.

12 2. On April 30, 2014, Plaintiff filed an exhaustion letter with the California Labor  
13 and Workforce Development Agency providing notice of her intent to bring a private attorneys  
14 general action for recovery of penalties under the California Labor Code Private Attorneys  
15 General Act of 2004, California Labor Code §2698, *et seq.* ("PAGA"). *See Arias v. Superior*  
16 *Court*, 46 Cal. 4th 969 (2009). PAGA permits an "aggrieved employee" to bring a lawsuit for  
17 civil penalties arising from violations of California's Labor Code committed against himself or  
18 herself and other current and former employees. Upon the conclusion of the PAGA exhaustion  
19 period, Plaintiff will amend her Complaint, as permitted by law, to seek penalties for the Labor  
20 Code violations committed against her and Defendants' other current and former California  
21 employees as a private attorney general.

22 3. Plaintiff is, and at all times mentioned in this Complaint was, a resident of San  
23 Diego, California.

24 4. Upon information and belief, defendant AT&T Mobility Services LLC is a  
25 Delaware corporation with principal executive offices in Georgia. AT&T Mobility Services  
26 LLC is currently registered to do business in the state of California and does business in San  
27 Diego, California.

1           5.       Upon information and belief, defendant AT&T Mobility LLC is a Delaware  
2 corporation with principal executive offices in Georgia. AT&T Mobility, LLC is currently  
3 registered to do business in the state of California and does business in San Diego, California.

4           6.       Upon information and belief, defendants AT&T Mobility are employers whose  
5 employees are engaged throughout San Diego County and the state of California.

6           7.       Whenever in this Complaint reference is made to any act, deed, or conduct of  
7 AT&T Mobility, the allegation means that AT&T Mobility engaged in the act, deed, or conduct  
8 by or through one or more of its officers, directors, agents, employees, or representatives, who  
9 was actively engaged in the management, direction, control, or transaction of the ordinary  
10 business and affairs of AT&T Mobility.

11          8.       Plaintiff is ignorant of the true names and capacities, whether individual,  
12 corporate, associate, or otherwise, of the defendants sued herein as Does 1-10, inclusive and  
13 therefore sues said defendants by such fictitious names ("Doe Defendants"). Plaintiff will amend  
14 this Complaint to insert the true names and capacities of the Doe Defendants at such time as the  
15 identities of the Doe Defendants are ascertained.

16          9.       Plaintiff is informed and believes, and thereon alleges, that the Doe Defendants  
17 are the partners, agents, or principals and/or co-conspirators of AT&T Mobility, and of each  
18 other; that AT&T Mobility and the Doe Defendants performed the acts and conduct herein  
19 alleged directly, aided and abetted the performance thereof, or knowingly acquiesced in, ratified,  
20 and accepted the benefits of such acts and conduct, and therefore each of the Doe Defendants is  
21 liable to the extent of the liability of AT&T Mobility as alleged herein.

22          10.      Plaintiff is further informed and believes, and thereon alleges, that at all times  
23 herein material, each defendant was completely dominated and controlled by its co-defendants  
24 and each was the alter ego of the other. Whenever and wherever reference is made in this  
25 Complaint to any conduct by AT&T Mobility or Defendants, such allegations and references  
26 shall also be deemed to mean the conduct of each of the Defendants, acting individually, jointly,  
27 and severally. Whenever and wherever reference is made to individuals who are not named as  
28 defendants in this Complaint, but were employees and/or agents of Defendants, such individuals

1 at all relevant times acted on behalf of Defendants named in this Complaint within the scope of  
2 their respective employments.

### 3 CLASS ACTION ALLEGATIONS

4 11. Plaintiff brings her claim for relief in this action on behalf of herself as well as on  
5 behalf of each and all other persons similarly situated, and thus, seeks class certification under  
6 California Code of Civil Procedure §382.

7 12. All claims alleged herein arise under California law for which Plaintiff seeks  
8 relief as authorized by California law.

9 13. With respect to Plaintiff's First through Seventh Causes of Action, the proposed  
10 Classes and Sub Class are comprised of and defined as:

11 Any and all persons who are or were employees of AT&T Mobility LLC and/or  
12 AT&T Mobility Services LLC in the state of California within one year prior to  
13 the filing of the Complaint in this action until resolution of this lawsuit and who  
received a paystub (hereinafter collectively referred to as the "Pay Stub Class").

14 Any and all persons who are or were non-exempt Retail Sales Consultant  
15 employees, or equivalent positions however titled, of AT&T Mobility LLC  
16 and/or AT&T Mobility Services LLC in the state of California within four years  
prior to the filing of the Complaint in this action until resolution of this lawsuit  
(hereinafter collectively referred to as the "RSC Class").

17 Any and all persons in the RSC Class whose employment was separated at any  
18 time within three years prior to the filing of the Complaint in this action until  
19 resolution of this lawsuit (hereinafter collectively referred to as the "RSC  
Waiting Time Sub Class").

20 14. The members of the Pay Stub Class, the RSC Class, and the RSC Waiting Time  
21 Sub Class (collectively, the "Classes" or "Class Members") are so numerous as to make it  
22 impracticable to bring them all before this Court. Plaintiff is unable to state the exact number of  
23 the Class Members without discovery of Defendants' books and records, but avers upon  
24 information and belief that each of the Classes exceed fifty members. The identity of Class  
25 Members is readily ascertainable by an inspection of Defendants' employment and payroll  
26 records.

1           15.     There are questions of law and fact common to the members of each of the  
2 Classes that predominate over any questions affecting any individual in the Classes. Defendants  
3 have acted, and refused to act, on grounds generally applicable to members of the Classes.

4           16.     Plaintiff's claims are typical of the claims of the Class Members and Plaintiff will  
5 fairly and adequately protect the interests of these members.

6           17.     The prosecution of separate actions by individual members of the Classes would  
7 create the risk of:

8                   (a)     Inconsistent or varying adjudications in different jurisdictions with respect  
9 to individual Class Members, which would establish incompatible standards of conduct for  
10 Defendants; and

11                   (b)     Adjudications with respect to individual Class Members which, as a  
12 practical matter, would be dispositive of the interests and rights of Class Members who are not  
13 parties to the adjudications, or would substantially impair or impede the ability of Class  
14 Members to protect their interests.

15           18.     At all times relevant to this action, Defendants have enacted and effected  
16 unlawful and unfair state-wide employment policies and practices which have caused Plaintiff  
17 and members of the Classes to suffer injury. A class action is superior to other available  
18 methods for the fair and efficient adjudication of Defendants' policies and practices and the  
19 damage they caused Plaintiff and members of the Classes to suffer and which are the subject  
20 matter of this action.

21           19.     Employers in the state of California violate employment and labor laws every  
22 day. Current employees are often afraid to assert their rights out of fear of direct or indirect  
23 retaliation. Former employees are fearful of bringing actions because they believe their former  
24 employers may damage their future endeavors through negative references and/or other means.  
25 The nature of this action allows for the protection of current and former employees' rights  
26 without fear for retaliation or damage.

20. The claims asserted herein implicate questions of law or fact common to members of the Classes. These common questions predominate over any questions affecting only individual Class Members. Common questions include, but are not limited to:

(a) Whether Defendants failed to maintain and provide Pay Stub Class members with wage statements that complied with the requirements of the California Labor Code §226(a);

(b) Whether Defendants failed to provide members of the RSC Class with proper meal premium pay at the true regular rate of pay as required by California Labor Code §§226.7(c) and 1198 and the applicable California Industrial Welfare Commission ("IWC") Wage Order;

(c) Whether Defendants failed to provide members of the RSC Class with proper rest premium pay at the true regular rate of pay as required by California Labor Code §§226.7(c) and 1198 and the applicable California IWC Wage Order;

(d) Whether Defendants failed to provide members of the RSC Class with all required overtime in violation of California Labor Code §§510 and 1198;

(e) Whether Defendants failed to provide members of the RSC Class with all required minimum wages in violation of California Labor Code §§1197 and 1198 and the applicable California IWC Wage Order;

(f) Whether Defendants unlawfully failed to pay all wages due and owing to RSC Class members, and on a timely manner timely wages to members of the RSC Waiting Time Sub Class in violation of California Labor Code §§201, 202, and 203;

(g) Whether Defendants engaged in unfair competition in violation of California Business and Professions Code §§17200, *et seq.*; and

(h) The appropriate amount of penalties, damages, and restitution resulting from Defendants' violations of California law.

#### **FACTUAL ALLEGATIONS**

21. At all times set forth herein, Defendants employed, and continue to employ, employees throughout the state of California. Upon information and belief, defendant AT&T

1 Mobility Services LLC is a Delaware corporation with principal executive offices in Georgia.  
2 AT&T Mobility Services LLC is currently registered to do business in the state of California and  
3 does business in San Diego, California.

4 22. Upon information and belief, defendant, AT&T Mobility LLC is Delaware  
5 corporation with principal executive offices in Georgia. AT&T Mobility LLC is currently  
6 registered to do business in the state of California and does business in San Diego, California.

7 23. Upon information and belief, defendants AT&T Mobility provide wireless  
8 services and products and employ persons throughout San Diego County and the state of  
9 California.

10 24. Plaintiff is a former employee of Defendants and worked in San Diego County,  
11 California, until approximately April 21, 2014. At times relevant, she held a non-exempt  
12 employee position of Retail Sales Consultant. Plaintiff worked for Defendants at times during  
13 the relevant period specified herein.

14 25. Plaintiff and other members of the Pay Stub Class, the RSC Class, and the RSC  
15 Waiting Time Sub Class have been at times pertinent hereto, employees of Defendants within the  
16 meaning of the California Labor Code and the implementing rules and regulations of the  
17 California IWC Wage Orders. Plaintiff and other members of the RSC Class and the RSC  
18 Waiting Time Sub Class have been at times pertinent hereto, non-exempt employees of  
19 Defendants within the meaning of the California Labor Code and the implementing rules and  
20 regulations of the California IWC Wage Orders.

21 26. During the relevant time frame, Defendants knowingly and intentionally failed,  
22 and continue to fail, to provide Plaintiff and other members of Pay Stub Class with wage  
23 statements that contained the information required by California Labor Code §226(a). The wage  
24 statements Defendants have provided to Plaintiff and other employees in Pay Stub Class fail to,  
25 among other things, on their face correctly state the work dates for which payments are being  
26 paid including overtime wages, commissions, and adjustments, and accurately itemize the total  
27 hours worked and all applicable hourly rates in effect during the pay period and the  
28 corresponding number of hours worked at each hourly rate in effect each pay period. For

1 example, the wage statements, on their face, fail to identify a rate of pay, hours worked, and time  
2 periods for "true up payments" and "additional adjustments;" fail to have corresponding time  
3 periods listed for each time period that non-base payments are being made such as overtime and  
4 commissions; fail to accurately itemize the total hours worked; and fail to accurately state the  
5 rate of pay for meal and rest premiums in that the premium payments are not based on the  
6 employees' true regular rate of pay but rather only their base pay. Additionally, the wage  
7 statements fail to accurately itemize hours worked and gross and net wages earned in that for  
8 RSC Class members, the wage statements omit some hours worked and wages earned as a result  
9 of these employees not being paid for all time spent working while waiting for procedures to be  
10 completed for electronic devices and closing. Furthermore, the wage statements omit required  
11 information about the employer legal entities in that the wage statements identify AT&T  
12 Mobility Services LLC as the employer but fail to identify AT&T Mobility LLC as an employer.  
13 AT&T Mobility LLC is identified in a Labor Agreement between AT&T Mobility LLC and the  
14 Communication Workers of America as an employer of persons covered by that agreement.

15 27. During the relevant time frame, Plaintiff and RSC Class members have been  
16 systematically denied all extra hours of pay, at these employees' true regular rates of pay, as  
17 required by California law where meal periods were not provided and rest periods not authorized  
18 and permitted. Rather, when Defendants did pay the extra hours of pay, Defendants did so at the  
19 employees' base regular rate of pay and not their true regular rate of pay which includes  
20 commissions, incentive pay, and other forms of compensation that is factored into the calculation  
21 of the employees' regular rate of pay.

22 28. During the relevant time frame, Plaintiff and RSC Class members were not  
23 exempt from receiving the applicable minimum wages and overtime wages. Notwithstanding  
24 this, these persons had their rights violated through Defendants' failure to pay applicable  
25 minimum, overtime, and regular wages. Such violations resulted from Defendants' conduct  
26 which includes, but is not limited to: (i) failing to pay for all time worked arising from time spent  
27 waiting for issuance and return of electronic devices (e.g., iPads) for work; and (ii) failing to pay  
28 for all time worked to closing shift RSC Class members arising from time spent waiting to be

1 released from work at the end of closing shifts as a result of procedures such as lock-up, closing  
2 up, and alarming procedures.

3 29. During the relevant time frame, Plaintiff and RSC Waiting Time Sub Class  
4 members each were required to be paid timely upon separation of employment in accordance  
5 with California Labor Code §§201, 202, and 203. Defendants, through their actions including  
6 those alleged herein of not paying proper wages, wilfully have not paid these employees all  
7 wages due during upon separation of employment.

8 30. During the relevant time frame, Defendants engaged in unlawful conduct and  
9 unfair competition resulting in injury to Plaintiff and, on information and belief, others through  
10 their violation of California's wage and hour laws alleged herein.

#### 11 **FIRST CAUSE OF ACTION**

#### 12 **Class Claim for Violation of California Labor Code §1197 Against All Defendants** 13 **(Minimum Wage Claim)**

14 31. Plaintiff repeats and incorporates herein by reference each and every allegation  
15 contained above, as though fully set forth herein.

16 32. California Labor Code §1197 specifies that an employer engages in an unlawful  
17 act if it pays employees an amount less than the lawful minimum wage fixed by the California  
18 IWC Wage Order.

19 33. The "Minimum Wages" section of the applicable California IWC Wage Order  
20 makes it unlawful for an employer to pay less than the applicable minimum wage for all hours  
21 worked, whether the remuneration is measured by time, piece, commission, or otherwise.

22 34. During times relevant, Defendants failed to pay, at least minimum wages for all  
23 hours worked, to Plaintiff and members of the RSC Class. This occurred as a result of  
24 Defendants' conduct of, among other things: (i) failing to pay for all time worked arising from  
25 time spent waiting for issuance and return of electronic devices (e.g., iPads) for work; and (ii)  
26 failing to pay for all time worked to closing shift RSC Class members arising from time spent  
27 waiting to be released from work at the end of closing shifts as a result of procedures such as  
28 lock-up, closing up, and alarming procedures.

35. California Labor Code §§201 and 202 set forth timing requirements for the payment of wages to employees who are separating employment. A violation of California Labor Code §§201 and/or 202 results in payment waiting time penalties under California Labor Code §203.

36. During times relevant, Defendants failed to pay Plaintiff and members of the RSC Waiting Time Sub Class wages timely in conformance with the requirements set forth in California Labor Code §§201 and 202, as applicable.

37. For this violation, Plaintiff and members of the RSC Class are entitled to and seek the payment of the unlawfully withheld minimum wages and further seek recovery of any and all available remedies to the extent permissible including recovery of interest, attorneys' fees and costs, and liquidated damages relating to any unpaid minimum wages under California Labor Code §§1194 and 1194.2. Further, Plaintiff and members of the RSC Waiting Time Sub Class who have not been paid timely within the statutory period set forth in California Labor Code §§201 and 202 are entitled to and seek recovery of penalties under California Labor Code §203.

## **SECOND CAUSE OF ACTION**

### **Class Claim for Violation of California Labor Code §510 Against All Defendants (Overtime Claim)**

38. Plaintiff repeats and incorporates herein by reference each and every allegation contained above, as though fully set forth herein.

39. California Labor Code §510(a) provides in relevant part with respect to non-exempt employees:

Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

1           40. During times relevant, Defendants failed to pay overtime wages for all hours  
 2 worked to Plaintiff and members of the RSC Class. This occurred as a result of Defendants'  
 3 conduct of, among other things: (i) failing to pay for all time worked arising from time spent  
 4 waiting for issuance and return of electronic devices (e.g., iPads) for work; and (ii) failing to pay  
 5 for all time worked to closing shift RSC Class members arising from time spent waiting to be  
 6 released from work at the end of closing shifts as a result of procedures such as lock-up, closing  
 7 up, and alarming procedures.

8           41. California Labor Code §§201 and 202 set forth timing requirements for the  
 9 payment of wages to employees who are separating employment. A violation of California  
 10 Labor Code §§201 and/or 202 results in payment waiting time penalties under California Labor  
 11 Code §203.

12           42. During times relevant, Defendants failed to pay Plaintiff and members of the RSC  
 13 Waiting Time Sub Class wages timely in conformance with the requirements set forth in  
 14 California Labor Code §§201 and 202, as applicable.

15           43. For this violation, Plaintiff and members of the RSC Class are entitled to and seek  
 16 the payment of the unlawfully withheld overtime wages and further seek recovery of any and all  
 17 available remedies to the extent permissible including recovery of interest, attorneys' fees and  
 18 costs, and liquidated damages relating to any unpaid overtime wages under California Labor  
 19 Code §§1194 and 1194.2. Further, Plaintiff and members of the RSC Waiting Time Sub Class  
 20 who have not been paid timely within the statutory period set forth in California Labor Code  
 21 §§201 and 202 are entitled to and seek recovery of penalties under California Labor Code §203.

### 22           THIRD CAUSE OF ACTION

#### 23           **Class Claim for Violation of California Labor Code §226.7(b) Against All Defendants** 24           **(Rest Period Claim)**

25           44. Plaintiff repeats and incorporates herein by reference each and every allegation  
 26 contained above, as though fully set forth herein.

27           45. California Labor Code §226.7(b) makes it unlawful for an employer to require  
 28 any employee to work during any paid rest period mandated by an applicable California IWC

1 Wage Order. California Labor Code §1198 additionally makes it unlawful to employ persons  
 2 under conditions prohibited by a Wage Order. The "Rest Periods" section of the applicable  
 3 Wage Order provides the following in relevant part:

4 Every employer shall authorize and permit all employees to take rest periods,  
 5 which insofar as practicable shall be in the middle of each work period. The  
 6 authorized rest period time shall be based on the total hours worked daily at the  
 7 rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.  
 8 However, a rest period need not be authorized for employees whose total daily  
 9 work time is less than three and one-half (3½) hours. Authorized rest period time  
 10 shall be counted, as hours worked for which there shall be no deduction from  
 11 wages.

12 46. California Labor Code §226.7(c) provides that an employer shall pay an employee  
 13 one additional hour of pay at the employee's regular rate of compensation for each workday that  
 14 the rest period is not provided.

15 47. During times relevant, Defendants failed to pay the appropriate payment under  
 16 California Labor Code §226.7(c) because Defendants, if and when paid, paid the additional hour  
 17 not at the employee's true regular rate of compensation, but rather used the employee's base rate  
 18 compensation not taking into account other compensation that forms the regular rate of  
 19 compensation such as commissions and incentive pay.

20 48. For this violation, Plaintiff and members of the RSC Class are entitled to and seek  
 21 one hour of premium pay at the employees' true regular rate of compensation for each day in  
 22 which a paid rest period was not authorized and permitted, and further seek recovery of any and  
 23 all available remedies to the extent permissible including recovery of interest, attorneys' fees, and  
 24 costs.

#### 25 **FOURTH CAUSE OF ACTION**

##### 26 **Class Claim for Violations of California Labor Code §§226.7(b) Against All Defendants (Meal Period Claim)**

27 49. Plaintiff repeats and incorporates herein by reference each and every allegation  
 28 contained above, as though fully set forth herein.

50. California Labor Code §226.7(b) makes it unlawful for an employer to require  
 any employee to work during any meal period mandated by an applicable California IWC Wage

1 Order. California Labor Code §1198 additionally makes it unlawful to employ persons under  
2 conditions prohibited by a Wage Order. The "Meal Periods" section of the applicable Wage  
3 Order provides the following in relevant part:

4 No employer shall employ any person for a work period of more than five (5)  
5 hours without a meal period of not less than 30 minutes, except that when a work  
6 period of not more than six (6) hours will complete the day's work the meal period  
7 may be waived by mutual consent of the employer and employee. Unless the  
8 employee is relieved of all duty during a 30 minute meal period, the meal period  
9 shall be considered an "on duty" meal period and counted as time worked. An  
10 "on duty" meal period shall be permitted only when the nature of the work  
11 prevents an employee from being relieved of all duty and when by written  
12 agreement between the parties an on-the-job paid meal period is agreed to. The  
13 written agreement shall state that the employee may, in writing, revoke the  
14 agreement at any time.... If an employer fails to provide an employee a meal  
15 period in accordance with the applicable provisions of this order, the employer  
16 shall pay the employee one (1) hour of pay at the employee's regular rate of  
17 compensation for each work day that the meal period is not provided.

18 51. California Labor Code §226.7(c) provides that an employer shall pay an employee  
19 one additional hour of pay at the employee's regular rate of compensation for each workday that  
20 the meal period is not provided.

21 52. During times relevant, Defendants failed to pay the appropriate payment under  
22 California Labor Code §226.7(c) because Defendants, if and when paid, paid the additional hour  
23 not at the employee's true regular rate of compensation, but rather used the employee's base rate  
24 compensation not taking into account other compensation that forms the regular rate of  
25 compensation such as commissions and incentive pay.

26 53. For this violation, Plaintiff and members of the RSC Class are entitled to and seek  
27 one hour of premium pay at the employees' true regular rate of compensation for each day in  
28 which a meal period was provided, and further seek recovery of any and all available remedies to  
the extent permissible including recovery of interest, attorneys' fees, and costs.

**FIFTH CAUSE OF ACTION**

**Class Claim for Violations of California Labor Code §§201 and 202 Against All Defendants  
(For Failure to Pay Wages Owed on Separation of Employment)**

54. Plaintiff repeats and incorporates herein by reference each and every allegation contained above, as though fully set forth herein.

55. California Labor Code §§201 and 202 require an employer who discharges an employee to pay compensation due and owing to said employee immediately upon discharge and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two hours thereafter, unless the employee has given seventy-two hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages on their last day of work. California Labor Code §203 provides that if an employer willfully fails to pay compensation promptly upon discharge, as required by California Labor Code §§201 and 202, the employer is liable for waiting time penalties in the form of continued compensation for up to thirty work days.

56. During the relevant time period and through its conduct including that alleged herein, Defendants willfully failed and refused, and continue to willfully fail and refuse, to pay Plaintiff and members of the RSC Waiting Time Sub Class their wages, earned and unpaid, either at the time of discharge, or within seventy-two hours of their voluntarily leaving Defendants' employ. Premium, regular, and minimum wages were improperly unpaid, but upon separation, Defendants also failed to pay earned and calculable wages due and owing within the time frame specified by California Labor Code §§201 and 202.

57. Defendants' willful failure to pay Plaintiff and RSC Waiting Time Sub Class members their wages earned and unpaid at the time of discharge, or within seventy-two hours of their voluntarily leaving Defendants' employ, violates California Labor Code §§201 and 202, as applicable. As a result, Defendants are liable to Plaintiff and members of the RSC Waiting Time Sub Class for waiting time penalties under California Labor Code §203, in an amount according to proof at the time of trial.

**SIXTH CAUSE OF ACTION**

**Class Claim for Violation of California Labor Code §226(a) Against All Defendants  
(Pay Stub Claim)**

58. Plaintiff repeats and incorporates herein by reference each and every allegation contained above, as though fully set forth herein.

59. California Labor Code §226(a) sets forth reporting requirements for employers when they pay wages. In relevant part, it states:

Every employer shall ... at the time of each payment of wages, furnish each of his or her employees ... an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer ..., and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee....

California Labor Code §226(e) provides:

An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

California Labor Code §226(e)(2)(B) provides:

An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide accurate and complete information as required by any one or more of items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and easily determine from the wage statement alone one or more of the following: (i) The amount of the gross wages or net wages paid to the employee during the pay period or any of the other information required to be provided on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a)[;] (ii) Which deductions the employer made from

1 gross wages to determine the net wages paid to the employee during the pay  
2 period. Nothing in this subdivision alters the ability of the employer to aggregate  
3 deductions consistent with the requirements of item (4) of subdivision (a)[;] (iii)  
4 The name and address of the employer and, if the employer is a farm labor  
5 contractor, as defined in subdivision (b) of Section 1682, the name and address of  
6 the legal entity that secured the services of the employer during the pay period[;  
7 and] (iv) The name of the employee and only the last four digits of his or her  
8 social security number or an employee identification number other than a social  
9 security number.

10 60. During the relevant time frame, Defendants knowingly and intentionally failed,  
11 and continue to fail, to provide Plaintiff and other members of Pay Stub Class with wage  
12 statements that contained the information required by California Labor Code §226(a). The wage  
13 statements Defendants have provided to Plaintiff and other employees in Pay Stub Class fail to,  
14 among other things, on their face correctly state the work dates for which payments are being  
15 paid including overtime wages, commissions, and adjustments, and accurately itemize the total  
16 hours worked and all applicable hourly rates in effect during the pay period and the  
17 corresponding number of hours worked at each hourly rate in effect each pay period. For  
18 example, the wage statements, on their face, fail to identify a rate of pay, hours worked, and time  
19 periods for "true up payments" and "additional adjustments;" fail to have corresponding time  
20 periods listed for each time period that non-base payments are being made such as overtime and  
21 commissions; fail to accurately itemize the total hours worked; and fail to accurately state the  
22 rate of pay for meal and rest premiums in that the premium payments are not based on the  
23 employees' true regular rate of pay but rather only their base pay. Additionally, the wage  
24 statements fail to accurately itemize hours worked and gross and net wages earned in that for  
25 RSC Class members, the wage statements omit some hours worked and wages earned as a result  
26 of these employees' not being paid for all time spent working while waiting for procedures to be  
27 completed for electronic devices and closing. Furthermore, the wage statements omit required  
28 information about the employer legal entities in that the wage statements identify AT&T  
Mobility Services LLC as the employer but fail to identify AT&T Mobility LLC as an employer.  
AT&T Mobility LLC is identified in a Labor Agreement between AT&T Mobility LLC and the  
Communication Workers of America as an employer of persons covered by that agreement.

1           61. Plaintiff and other Pay Stub Class members have been injured, as defined by  
2 California Labor Code §226, by these omissions and inaccuracies.

3           62. Defendants knowingly and intentionally failed, and continue to fail, to furnish  
4 Plaintiff and Pay Stub Class members complete and accurate wage statements upon each  
5 payment of wages in violation of California Labor Code §226(a). Plaintiff and Pay Stub Class  
6 members have been injured and damaged by these failures because, among other things, it  
7 renders them unable to determine whether Defendants properly recorded their hours worked and  
8 makes it impossible to tell whether they were properly compensated for all pay earned at the  
9 proper rates and during the applicable pay period. Plaintiff and, on information and belief, Pay  
10 Stub Class members are required to engage in discovery and mathematical computations to  
11 reconstruct their time records to determine if they were paid correctly as a result of the inaccurate  
12 and/or incomplete wage statements. Plaintiff and, on information and belief, Pay Stub Class  
13 members cannot easily ascertain from the information provided to them through the wage  
14 statements whether his or her wages and hours have been calculated correctly. Accordingly,  
15 Plaintiff and, on information and belief, Pay Stub Class members cannot promptly and easily  
16 determine from the wage statement alone the information set forth in California Labor Code  
17 §226(e)(2)(B) to assure that he or she is not being underpaid and have had to refer to other  
18 documents and information to attempt to ascertain this information.

19           63. Defendants will no doubt continue these illegal practices until such time as they  
20 are forced to pay monies set forth under California Labor Code §226(e). Defendants moreover  
21 will no doubt continue these illegal practices until such time as they are forced to cease such  
22 practice under the injunctive relief provision of California Labor Code §226(h).

23           64. Plaintiff and Pay Stub Class members are entitled to and seek any and all  
24 available remedies to the extent permissible including injunctive relief and recovery of all  
25 available statutory damages, penalties, interest, attorneys' fees, and costs pursuant to California  
26 Labor Code §226(e) and (h).

27

28



1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff requests entry of judgment, on behalf of herself and the other  
3 California employees, against each defendant, jointly and severally, as follows:

4 **Class Certification**

- 5 1. That this action be certified as a class action;
- 6 2. That Plaintiff be appointed as the representative of the Pay Stub Class, the RSC  
7 Class, and the RSC Waiting Time Sub Class; and
- 8 3. That counsel for Plaintiff be appointed as counsel for the Pay Stub Class, the RSC  
9 Class, and the RSC Waiting Time Sub Class.

10 **On the First and Second Causes of Action**

- 11 1. For repayment of wages and liquidated damages, under the First and Second  
12 Causes of Action, to Plaintiff and members of the RSC Class under California Labor Code  
13 §§1194 and 1194.2 according to proof and to the extent permissible;
- 14 2. For payment of penalties to Plaintiff and members of the RSC Waiting Time Sub  
15 Class under California Labor Code §203 according to proof and to the extent permissible;
- 16 3. For pre-judgment interest on any unpaid wages due from the day that such  
17 amounts were due under California Labor Code §1194;
- 18 4. For reasonable attorneys' fees that Plaintiff and members of the RSC Class are  
19 entitled to recover under California Labor Code §1194;
- 20 5. For costs of suit incurred herein that Plaintiff and members of the RSC Class are  
21 entitled to recover under California Labor Code §1194; and
- 22 6. For such other and further relief as the Court deems proper.

23 **On the Third and Fourth Causes of Action**

- 24 1. For statutory premium wages to Plaintiff and members of the RSC Class under  
25 California Labor Code §226.7(c) according to proof;
- 26 2. For reasonable attorneys' fees and costs of suit pursuant to California Code of  
27 Civil Procedure §1021.5;

1           3.     For pre-judgment interest on any unpaid wages due from the day that such  
2 amounts were due; and

3           4.     For such other and further relief as the Court deems proper.

4                                 On the Fifth Cause of Action

5           1.     For penalties according to proof under California Labor Code §203 to Plaintiff  
6 and members of the RSC Waiting Time Sub Class;

7           2.     For reasonable attorneys' fees;

8           3.     For costs of suit incurred herein; and

9           4.     For such other and further relief as the Court deems proper.

10                                On the Sixth Cause of Action

11          1.     For penalties and damages according to proof under California Labor Code  
12 §226(e) to Plaintiff and Pay Stub Class members;

13          2.     For injunctive relief under California Labor Code §226(h);

14          3.     For reasonable attorneys' fees;

15          4.     For costs of suit incurred herein; and

16          5.     For such other and further relief as the Court deems proper.

17                                On the Seventh Cause of Action

18          1.     That Defendants, jointly and/or severally, pay restitution and/or disgorgement of  
19 sums to Plaintiff and members of the RSC Class for their failures to pay all minimum wages over  
20 the last four years in an amount according to proof;

21          2.     That Defendants, jointly and/or severally, pay restitution and/or disgorgement of  
22 sums to Plaintiff and members of the RSC Class for their failures to pay all overtime wages over  
23 the last four years in an amount according to proof;

24          3.     That Defendants, jointly and/or severally, pay restitution and/or disgorgement of  
25 sums to Plaintiff and members of the RSC Class for their failures to pay all wages due and owing  
26 over the last four years as in an amount according to proof;

27          4.     That Defendants, jointly and/or severally, pay restitution and/or disgorgement of  
28 sums to Plaintiff and members of the RSC Class for their failures to pay correct premium wages

1 for rest periods that were not authorized and permitted over the last four years in an amount  
2 according to proof;

3 5. That Defendants, jointly and/or severally, pay restitution and/or disgorgement of  
4 sums to Plaintiff and members of the RSC Class for their failures to pay correct premium wages  
5 for meal periods that were not provided over the last four years in an amount according to proof;

6 6. For pre-judgment interest on any unpaid wages due from the day that such  
7 amounts were due;

8 7. For reasonable attorneys' fees that Plaintiff and members of the RSC Class are  
9 entitled to recover under California Labor Code §§218.5 and 1194, and California Code of Civil  
10 Procedure §1021.5;

11 8. For costs of suit incurred herein that Plaintiff and members of the RSC Class are  
12 entitled to recover under California Labor Code §§218.5 and 1194; and

13 9. For such other and further relief as the Court deems proper.

14 **DEMAND FOR JURY TRIAL**

15 Plaintiff requests a jury trial in this matter.

16 Dated: April 30, 2014

ROBBINS ARROYO LLP  
THE DENTE LAW FIRM

17  
18 By:   
19 DIANE E. RICHARD

20 Attorneys for Plaintiff Tran K. Ly

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Diane E. Richard (#204897) ROBBINS ARROYO LLP 600 B Street, Suite 1900 San Diego, CA 92101 TELEPHONE NO.: (619) 525-3990 FAX NO.: (619) 525-3991 ATTORNEY FOR (Name): Plaintiff Tran K. Ly		FOR COURT USE ONLY  <b>ELECTRONICALLY FILED</b> Superior Court of California, County of San Diego  <b>04/30/2014 at 02:43:28 PM</b> Clerk of the Superior Court By Bernice Onihuela, Deputy Clerk	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego STREET ADDRESS: 330 West Broadway MAILING ADDRESS: CITY AND ZIP CODE: San Diego, CA 92101 BRANCH NAME: Central			
CASE NAME: Ly v. AT&T Mobility Services LLC, et al.			
<b>CIVIL CASE COVER SHEET</b> <input checked="" type="checkbox"/> <b>Unlimited</b> (Amount demanded exceeds \$25,000) <input type="checkbox"/> <b>Limited</b> (Amount demanded is \$25,000 or less)		<b>Complex Case Designation</b> <input type="checkbox"/> <b>Counter</b> <input type="checkbox"/> <b>Joinder</b> Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	
		CASE NUMBER: 37-2014-00013654-CU-0E-CTL  JUDGE: Judge Joel R. Wohlfeil DEPT:	

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:		
<b>Auto Tort</b> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) <b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) <b>Non-PI/PD/WD (Other) Tort</b> <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) <b>Employment</b> <input type="checkbox"/> Wrongful termination (36) <input checked="" type="checkbox"/> Other employment (15)	<b>Contract</b> <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) <b>Real Property</b> <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) <b>Unlawful Detainer</b> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) <b>Judicial Review</b> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<b>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</b> <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <b>Enforcement of Judgment</b> <input type="checkbox"/> Enforcement of judgment (20) <b>Miscellaneous Civil Complaint</b> <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) <b>Miscellaneous Civil Petition</b> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)

2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- |   |  |
|---|--|
| a. <input type="checkbox"/> Large number of separately represented parties  | d. <input type="checkbox"/> Large number of witnesses  |
| b. <input checked="" type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input checked="" type="checkbox"/> Substantial amount of documentary evidence   | f. <input type="checkbox"/> Substantial postjudgment judicial supervision  |
3. Remedies sought (check all that apply): a. ☒ monetary    b. ☒ nonmonetary; declaratory or injunctive relief    c. ☐ punitive
4. Number of causes of action (specify): 7
5. This case ☒ is ☐ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: April 30, 2014

Diane E. Richard

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

CM-010

## INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

**To Plaintiffs and Others Filing First Papers.** If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

**To Parties in Rule 3.740 Collections Cases.** A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

**To Parties in Complex Cases.** In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

## CASE TYPES AND EXAMPLES

## Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death  
Uninsured Motorist (46) (if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)

## Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)  
Asbestos Property Damage  
Asbestos Personal Injury/Wrongful Death  
Product Liability (not asbestos or toxic/environmental) (24)  
Medical Malpractice (45)  
Medical Malpractice—Physicians & Surgeons  
Other Professional Health Care Malpractice  
Other PI/PD/WD (23)  
Premises Liability (e.g., slip and fall)  
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)  
Intentional Infliction of Emotional Distress  
Negligent Infliction of Emotional Distress  
Other PI/PD/WD

## Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)  
Civil Rights (e.g., discrimination, false arrest) (not civil harassment) (08)  
Defamation (e.g., slander, libel) (13)  
Fraud (16)  
Intellectual Property (19)  
Professional Negligence (25)  
Legal Malpractice  
Other Professional Malpractice (not medical or legal)  
Other Non-PI/PD/WD Tort (35)

## Employment

Wrongful Termination (36)  
Other Employment (15)

## Contract

Breach of Contract/Warranty (06)  
Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction)  
Contract/Warranty Breach—Seller Plaintiff (not fraud or negligence)  
Negligent Breach of Contract/Warranty  
Other Breach of Contract/Warranty  
Collections (e.g., money owed, open book accounts) (09)  
Collection Case—Seller Plaintiff  
Other Promissory Note/Collections Case  
Insurance Coverage (not provisionally complex) (18)  
Auto Subrogation  
Other Coverage  
Other Contract (37)  
Contractual Fraud  
Other Contract Dispute

## Real Property

Eminent Domain/Inverse Condemnation (14)  
Wrongful Eviction (33)  
Other Real Property (e.g., quiet title) (26)  
Writ of Possession of Real Property  
Mortgage Foreclosure  
Quiet Title  
Other Real Property (not eminent domain, landlord/tenant, or foreclosure)

## Unlawful Detainer

Commercial (31)  
Residential (32)  
Drugs (38) (if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)

## Judicial Review

Asset Forfeiture (05)  
Petition Re: Arbitration Award (11)  
Writ of Mandate (02)  
Writ—Administrative Mandamus  
Writ—Mandamus on Limited Court Case Matter  
Writ—Other Limited Court Case Review  
Other Judicial Review (39)  
Review of Health Officer Order  
Notice of Appeal—Labor Commissioner Appeals

## Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)  
Construction Defect (10)  
Claims Involving Mass Tort (40)  
Securities Litigation (28)  
Environmental/Toxic Tort (30)  
Insurance Coverage Claims (arising from provisionally complex case type listed above) (41)

## Enforcement of Judgment

Enforcement of Judgment (20)  
Abstract of Judgment (Out of County)  
Confession of Judgment (non-domestic relations)  
Sister State Judgment  
Administrative Agency Award (not unpaid taxes)  
Petition/Certification of Entry of Judgment on Unpaid Taxes  
Other Enforcement of Judgment Case

## Miscellaneous Civil Complaint

RICO (27)  
Other Complaint (not specified above) (42)  
Declaratory Relief Only  
Injunctive Relief Only (non-harassment)  
Mechanics Lien  
Other Commercial Complaint Case (non-tort/non-complex)  
Other Civil Complaint (non-tort/non-complex)

## Miscellaneous Civil Petition

Partnership and Corporate Governance (21)  
Other Petition (not specified above) (43)  
Civil Harassment  
Workplace Violence  
Elder/Dependent Adult Abuse  
Election Contest  
Petition for Name Change  
Petition for Relief From Late Claim  
Other Civil Petition

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO</b>	
STREET ADDRESS: 330 W Broadway	
MAILING ADDRESS: 330 W Broadway	
CITY AND ZIP CODE: San Diego, CA 92101-3827	
BRANCH NAME: Central	
TELEPHONE NUMBER: (619) 450-7073	
PLAINTIFF(S) / PETITIONER(S): Tran K Ly	
DEFENDANT(S) / RESPONDENT(S): AT&T MOBILITY SERVICES LLC et.al.	
TRAN K LY VS AT&T MOBILITY SERVICES LLC [E-FILE]	
<b>NOTICE OF CASE ASSIGNMENT AND CASE MANAGEMENT CONFERENCE on MANDATORY eFILE CASE</b>	CASE NUMBER: 37-2014-00013654-CU-OE-CTL

**CASE ASSIGNMENT**

Judge: Joel R. Wohlfeil

Department: C-73

**COMPLAINT/PETITION FILED: 04/30/2014**

TYPE OF HEARING SCHEDULED	DATE	TIME	DEPT	JUDGE
Civil Case Management Conference	10/03/2014	01:30 pm	C-73	Joel R. Wohlfeil

A case management statement must be completed by counsel for all parties or self-represented litigants and timely filed with the court at least 15 days prior to the initial case management conference. (San Diego Local Rules, Division II, CRC Rule 3.725).

All counsel of record or parties in pro per shall appear at the Case Management Conference, be familiar with the case, and be fully prepared to participate effectively in the hearing, including discussions of ADR\* options.

IT IS THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE COMPLAINT (AND CROSS-COMPLAINT), THE ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION FORM (SDSC FORM #CIV-730), A STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR) (SDSC FORM #CIV-359), AND OTHER DOCUMENTS AS SET OUT IN SDSC LOCAL RULE 2.1.5.

ALL COUNSEL WILL BE EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND WILL BE STRICTLY ENFORCED.

**TIME STANDARDS:** The following timeframes apply to general civil cases and must be adhered to unless you have requested and been granted an extension of time. General civil cases consist of all civil cases except: small claims proceedings, civil petitions, unlawful detainer proceedings, probate, guardianship, conservatorship, juvenile, parking citation appeals, and family law proceedings.

**COMPLAINTS:** Complaints and all other documents listed in SDSC Local Rule 2.1.5 must be served on all named defendants.

**DEFENDANT'S APPEARANCE:** Defendant must generally appear within 30 days of service of the complaint. (Plaintiff may stipulate to no more than 15 day extension which must be in writing and filed with the Court.) (SDSC Local Rule 2.1.6)

**JURY FEES:** In order to preserve the right to a jury trial, one party for each side demanding a jury trial shall pay an advance jury fee in the amount of one hundred fifty dollars (\$150) on or before the date scheduled for the initial case management conference in the action.

**MANDATORY eFILE:** Case assigned to mandatory eFile program per CRC 3.400-3.403 and SDSC Rule 2.4.11. All documents must be eFiled at [www.onelegal.com](http://www.onelegal.com). Refer to General Order 010313 at [www.sdcourt.ca.gov](http://www.sdcourt.ca.gov) for guidelines and procedures.

**\*ALTERNATIVE DISPUTE RESOLUTION (ADR):** THE COURT ENCOURAGES YOU TO CONSIDER UTILIZING VARIOUS ALTERNATIVES TO TRIAL, INCLUDING MEDIATION AND ARBITRATION, PRIOR TO THE CASE MANAGEMENT CONFERENCE. PARTIES MAY FILE THE ATTACHED STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (SDSC FORM #CIV-359).



## SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

### ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION

CASE NUMBER: 37-2014-00013654-CU-OE-CTL CASE TITLE:

Tran K Ly vs At&T Mobility Services LLC [E-FILE]

**NOTICE:** All plaintiffs/cross-complainants in a general civil case are required to serve a copy of the following three forms on each defendant/cross-defendant, together with the complaint/cross-complaint:

- (1) this Alternative Dispute Resolution (ADR) Information form (SDSC form #CIV-730),
- (2) the Stipulation to Use Alternative Dispute Resolution (ADR) form (SDSC form #CIV-359), and
- (3) the Notice of Case Assignment form (SDSC form #CIV-721).

Most civil disputes are resolved without filing a lawsuit, and most civil lawsuits are resolved without a trial. The courts, community organizations, and private providers offer a variety of Alternative Dispute Resolution (ADR) processes to help people resolve disputes without a trial. The San Diego Superior Court expects that litigants will utilize some form of ADR as a mechanism for case settlement before trial, and it may be beneficial to do this early in the case.

Below is some information about the potential advantages and disadvantages of ADR, the most common types of ADR, and how to find a local ADR program or neutral. A form for agreeing to use ADR is attached (SDSC form #CIV-359).

#### **Potential Advantages and Disadvantages of ADR**

ADR may have a variety of advantages or disadvantages over a trial, depending on the type of ADR process used and the particular case:

##### **Potential Advantages**

- Saves time
- Saves money
- Gives parties more control over the dispute resolution process and outcome
- Preserves or improves relationships

##### **Potential Disadvantages**

- May take more time and money if ADR does not resolve the dispute
- Procedures to learn about the other side's case (discovery), jury trial, appeal, and other court protections may be limited or unavailable

#### **Most Common Types of ADR**

You can read more information about these ADR processes and watch videos that demonstrate them on the court's ADR webpage at <http://www.sdcourt.ca.gov/adr>.

**Mediation:** A neutral person called a "mediator" helps the parties communicate in an effective and constructive manner so they can try to settle their dispute. The mediator does not decide the outcome, but helps the parties to do so. Mediation is usually confidential, and may be particularly useful when parties want or need to have an ongoing relationship, such as in disputes between family members, neighbors, co-workers, or business partners, or when parties want to discuss non-legal concerns or creative resolutions that could not be ordered at a trial.

**Settlement Conference:** A judge or another neutral person called a "settlement officer" helps the parties to understand the strengths and weaknesses of their case and to discuss settlement. The judge or settlement officer does not make a decision in the case but helps the parties to negotiate a settlement. Settlement conferences may be particularly helpful when the parties have very different ideas about the likely outcome of a trial and would like an experienced neutral to help guide them toward a resolution.

**Arbitration:** A neutral person called an "arbitrator" considers arguments and evidence presented by each side and then decides the outcome of the dispute. Arbitration is less formal than a trial, and the rules of evidence are usually relaxed. If the parties agree to binding arbitration, they waive their right to a trial and agree to accept the arbitrator's decision as final. With nonbinding arbitration, any party may reject the arbitrator's decision and request a trial. Arbitration may be appropriate when the parties want another person to decide the outcome of their dispute but would like to avoid the formality, time, and expense of a trial.

**Other ADR Processes:** There are several other types of ADR which are not offered through the court but which may be obtained privately, including neutral evaluation, conciliation, fact finding, mini-trials, and summary jury trials. Sometimes parties will try a combination of ADR processes. The important thing is to try to find the type or types of ADR that are most likely to resolve your dispute. Be sure to learn about the rules of any ADR program and the qualifications of any neutral you are considering, and about their fees.

### **Local ADR Programs for Civil Cases**

**Mediation:** The San Diego Superior Court maintains a Civil Mediation Panel of approved mediators who have met certain minimum qualifications and have agreed to charge \$150 per hour for each of the first two (2) hours of mediation and their regular hourly rate thereafter in court-referred mediations.

**On-line mediator search and selection:** Go to the court's ADR webpage at [www.sdcourt.ca.gov/adr](http://www.sdcourt.ca.gov/adr) and click on the "Mediator Search" to review individual mediator profiles containing detailed information about each mediator including their dispute resolution training, relevant experience, ADR specialty, education and employment history, mediation style, and fees and to submit an on-line Mediator Selection Form (SDSC form #CIV-005). The Civil Mediation Panel List, the Available Mediator List, individual Mediator Profiles, and Mediator Selection Form (CIV-005) can also be printed from the court's ADR webpage and are available at the Mediation Program Office or Civil Business Office at each court location.

**Settlement Conference:** The judge may order your case to a mandatory settlement conference, or voluntary settlement conferences may be requested from the court if the parties certify that: (1) settlement negotiations between the parties have been pursued, demands and offers have been tendered in good faith, and resolution has failed; (2) a judicially supervised settlement conference presents a substantial opportunity for settlement; and (3) the case has developed to a point where all parties are legally and factually prepared to present the issues for settlement consideration and further discovery for settlement purposes is not required. Refer to SDSC Local Rule 2.2.1 for more information. To schedule a settlement conference, contact the department to which your case is assigned.

**Arbitration:** The San Diego Superior Court maintains a panel of approved judicial arbitrators who have practiced law for a minimum of five years and who have a certain amount of trial and/or arbitration experience. Refer to SDSC Local Rules Division II, Chapter III and Code Civ. Proc. § 1141.10 et seq or contact the Arbitration Program Office at (619) 450-7300 for more information.

**More information about court-connected ADR:** Visit the court's ADR webpage at [www.sdcourt.ca.gov/adr](http://www.sdcourt.ca.gov/adr) or contact the court's Mediation/Arbitration Office at (619) 450-7300.

**Dispute Resolution Programs Act (DRPA) funded ADR Programs:** The following community dispute resolution programs are funded under DRPA (Bus. and Prof. Code §§ 465 et seq.):

- In Central, East, and South San Diego County, contact the National Conflict Resolution Center (NCRC) at [www.ncrconline.com](http://www.ncrconline.com) or (619) 238-2400.
- In North San Diego County, contact North County Lifeline, Inc. at [www.nclifeline.org](http://www.nclifeline.org) or (760) 726-4900.

**Private ADR:** To find a private ADR program or neutral, search the Internet, your local telephone or business directory, or legal newspaper for dispute resolution, mediation, settlement, or arbitration services.

### **Legal Representation and Advice**

To participate effectively in ADR, it is generally important to understand your legal rights and responsibilities and the likely outcomes if you went to trial. ADR neutrals are not allowed to represent or to give legal advice to the participants in the ADR process. If you do not already have an attorney, the California State Bar or your local County Bar Association can assist you in finding an attorney. Information about obtaining free and low cost legal assistance is also available on the California courts website at [www.courtinfo.ca.gov/selfhelp/lowcost](http://www.courtinfo.ca.gov/selfhelp/lowcost).

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO**

**FOR COURT USE ONLY**

STREET ADDRESS: 330 West Broadway  
MAILING ADDRESS: 330 West Broadway  
CITY, STATE, & ZIP CODE: San Diego, CA 92101-3827  
BRANCH NAME: Central

PLAINTIFF(S): Tran K Ly

DEFENDANT(S): AT&T MOBILITY SERVICES LLC et.al.

SHORT TITLE: TRAN K LY VS AT&amp;T MOBILITY SERVICES LLC [E-FILE]

## STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR)

CASE NUMBER:  
37-2014-00013654-CU-OE-CTL

Judge: Joel R. Wohlfeil

Department: C-73

The parties and their attorneys stipulate that the matter is at issue and the claims in this action shall be submitted to the following alternative dispute resolution (ADR) process. Selection of any of these options will not delay any case management timelines.

- ☐ Mediation (court-connected) ☐ Non-binding private arbitration
- ☐ Mediation (private) ☐ Binding private arbitration
- ☐ Voluntary settlement conference (private) ☐ Non-binding judicial arbitration (discovery until 15 days before trial)
- ☐ Neutral evaluation (private) ☐ Non-binding judicial arbitration (discovery until 30 days before trial)
- ☐ Other (specify e.g., private mini-trial, private judge, etc.): \_\_\_\_\_

It is also stipulated that the following shall serve as arbitrator, mediator or other neutral: (Name)

**Alternate neutral (for court Civil Mediation Program and arbitration only):**

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Name of Plaintiff

Name of Defendant

**Signature**

**Signature**

Name of Plaintiff's Attorney

Name of Defendant's Attorney

**Signature**

**Signature**

If there are more parties and/or attorneys, please attach additional completed and fully executed sheets.

It is the duty of the parties to notify the court of any settlement pursuant to Cal. Rules of Court, rule 3.1385. Upon notification of the settlement, the court will place this matter on a 45-day dismissal calendar.

**No new parties may be added without leave of court.**

**IT IS SO ORDERED.**

JUDGE OF THE SUPERIOR COURT

1  
2  
3  
4  
5  
6  
7  
8 **THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF SAN DIEGO**  
10

11 **IN RE PROCEDURES**  
12 **REGARDING**  
13 **ELECTRONIC FILING**  
14  
15

} **GENERAL ORDER OF THE**  
} **PRESIDING DEPARTMENT**  
} **ORDER NO. 010214-24 (A)**  
16

17 This order superseded General Order No.: 010214-24.

18 **THIS COURT FINDS AND ORDERS AS FOLLOWS:**

19 On August 1, 2011, the San Diego Superior Court ("court") began an Electronic  
20 Filing and Imaging Pilot Program ("Program") designed to reduce paper filings and  
21 storage, facilitate electronic access to civil court files and, in Phase Two, allow remote  
22 electronic filing ("E-File" or "E-Filing") of papers in civil cases. The ultimate goal of the  
23 Program is to create a paperless or electronic file in all civil cases, as well as in other  
24 case categories.

25 Phase One of the Program, described in General Order: *In re Procedures*  
26 *Regarding Electronically Imaged Court Records, Electronic Filing, and Access to*  
27 *Electronic Court Records*, involved the court's scanning of papers in newly filed cases in  
28 designated divisions and departments (the "Imaging Project"). Phase Two of the Program

1 involved the implementation of electronic filing by counsel and parties through the court's  
2 E-File Service Provider, One Legal. Electronic filing under Phase Two of the Program  
3 was limited to the Central Civil Division only and it excluded Probate and Construction  
4 Defect Cases. Electronic filing under Phase Three of the Program expanded electronic  
5 filing to include permissive electronic filing in Probate cases. North County Civil Divisions  
6 of the Superior Court and Construction Defect cases, in the Central Division, were  
7 excluded from Phase Three of the Program.

8       Electronic Filing under Phase Four of the Program expands electronic filing to  
9 include **mandatory** E-Filing in Construction Defect Cases in the Central Division through  
10 the court's E-File Service Provider. This General Order relates to Phase Four, and  
11 supplements General Orders: *In re Procedures Regarding Electronically Imaged Court*  
12 *Records, Electronic Filing, and Access to Electronic Court Records*.

13       Effective **June 2, 2014**, mandatory electronic filing through the court E-File Service  
14 Provider One Legal will be required for all Construction Defect Cases, including those  
15 currently being filed through File&Serve Xpress (fka LexisNexis File&Serve). As of **5:01**  
16 **p.m. on May 30, 2014**, no documents will be allowed to be filed through File&Serve  
17 Xpress. Further information on these initiatives can be found on the court's website, at  
18 [www.sdcourt.ca.gov](http://www.sdcourt.ca.gov).

19       Filing and service of documents by electronic means is governed by Code of Civil  
20 Procedure Section 1010.6 and California Rules of Court ("CRC"), rules 2.250 et seq. and  
21 CRC 2.30. In addition, the San Diego Superior Court's specific requirements for E-filing  
22 are available on the court's website at [www.sdcourt.ca.gov](http://www.sdcourt.ca.gov). Litigants and attorneys  
23 electronically filing documents must comply with all applicable rules and requirements.

24       This General Order supercedes and replaces all Electronic Filing and Service  
25 Orders previously entered in Construction Defect Cases.

## 26 **GENERAL E-FILING REQUIREMENTS**

27       Documents can only be electronically filed through the court's electronic service  
28 provider (the "Provider"). E-file Provider information is available on the court's website.

1 Any document filed electronically shall be considered as filed with the Clerk of the  
2 Superior Court when it is first transmitted to the Provider and the transmission is  
3 completed, except that any document filed on a day that the court is not open for business,  
4 or after 5:00 p.m. (Pacific Time) on a day the court is open for business, shall be deemed  
5 to have been filed on the next court day.

6 Additional and more specific information on electronic filing can be found on the  
7 court's website.

8 This Order shall expire on December 31, 2014, unless otherwise ordered by this  
9 court.

10 IT IS SO ORDERED.

11 Dated: March 28, 2014

A handwritten signature in black ink, reading "David J. Danielson", written over a horizontal line.

HON. DAVID J. DANIELSEN  
PRESIDING JUDGE

**ELECTRONIC FILING REQUIREMENTS OF THE**  
**SAN DIEGO SUPERIOR COURT – CENTRAL CIVIL DIVISION**

These requirements are issued pursuant to California Rules of Court ("CRC"), rules 2.250 et seq., Code of Civil Procedure section 1010.6, and San Diego Superior Court General Order: *In re Procedures Regarding Electronic Filing*.

Effective November 1, 2013, documents that are determined to be unacceptable for eFiling by the Court due to eFiling system restrictions or for failure to comply with these requirements will be rejected subject to being allowed to be filed nunc pro tunc to the original submittal date upon ex-parte application to the court and upon good cause shown.

It is the duty of the plaintiff (and cross-complainant) to serve a copy of the General Order of the Presiding Department, Order No. **010214-24A**, and Electronic Filing Requirements of the San Diego Superior Court with the complaint (and cross-complaint).

**PERMISSIVE eFILING**

**Effective March 4, 2013**, documents **may be filed electronically** in non-mandated civil cases in the Central Division where either: (1) the case is first initiated on or after March 4, 2013; or (2) the case is already pending as of March 4, 2013 and has been imaged by the court.

**MANDATORY eFILING**

The case types that shall be subject to mandatory eFiling are: civil class actions; consolidated and coordinated actions where all cases involved are imaged cases; and actions that are provisionally complex under CRC 3.400-3.403 (as set

forth in the Civil Cover Sheet, Judicial Council form CM-010 – including Construction Defect actions). “Complex cases” included in mandatory eFiling include Antitrust/Trade Regulation, Mass Tort, Environmental/Toxic Tort, and Securities Litigation cases, as well as insurance coverage claims arising from these case types. Effective **June 2, 2014** Construction Defect and other cases, currently being electronically filed through File&Serve Xpress (fka LexisNexis File&Serve), must be electronically filed through the court's Electronic Filing Service Provider, One Legal.

Documents electronically filed in Construction Defect and other cases prior to **June 2, 2014** will be maintained in the File&Serve Xpress system and can be viewed via a File&Serve Xpress subscription or on the Public Access Terminal (PAT) located in Room 241 of the Hall of Justice (2<sup>nd</sup> floor).

For cases of the type subject to mandatory eFiling that are initiated on or after March 4, 2013, all documents **must be filed electronically**, subject to the exceptions set forth below.

For cases of the type subject to mandatory eFiling that are already pending as of March 3, 2013, and provided that the case has been imaged by the court, all documents filed on or after March 4, 2013 **must be filed electronically**, subject to the exceptions set forth below.

A party may request to be excused from mandatory electronic filing requirements. This request must be in writing and may be made by ex parte application to the judge or department to whom the case is assigned. The clerk will not accept or file any documents in paper form that are required to be filed electronically, absent a court order allowing the filing.

Self-represented litigants are not required to EFile in a mandatory EFile case; however, they may EFile if they choose to do so and/or are otherwise ordered to EFile by the court.

## **REQUIREMENTS FOR ALL eFILERS**

EFile documents can only be filed through the court's Electronic Filing Service Provider (the "Provider"). See [www.onelegal.com](http://www.onelegal.com).

EFilers must comply with CRC 2.250-2.261. Also, all documents electronically filed must be in a text searchable format, i.e., OCR. The court is unable to accept documents that do not comply with these requirements, or documents that include but are not limited to: digitized signatures, fillable forms, or a negative image.

Documents that contain exhibits must be bookmarked, as set forth on the Provider's site. Documents not so bookmarked are subject to rejection. Moving papers with exhibits that are not bookmarked will be rejected. (See CRC 3.1110(f) with bookmarking being the substitute for plastic tabs in electronically filed documents.)

Exhibits to be considered via a Notice of Lodgment shall not be attached to the electronically filed Notice of Lodgment; instead, the submitting party must provide the assigned department with hard copies of the exhibits with a copy of the Notice of Lodgment that includes the eFiling Transaction ID# noted in the upper right hand corner.

Unless otherwise required by law, per CRC 1.20(b) only the last four digits of a social security or financial account number may be reflected in court case filings. Exclusion or redaction is the responsibility of the filer, not the clerk, CRC 1.20(b)(3). Failure to comply with this requirement may result in monetary sanctions, CRC 2.30(b).

Proposed filings, such as proposed court orders and amended complaints, should be submitted as an exhibit and then re-submitted as a separate and new eFiling transaction after the Court has ruled on the matter to which the proposed document

applies. See also CRC 3.1312.

Any document filed electronically shall be considered as filed with the Clerk of the Superior Court when it is first transmitted to the vendor and the transmission is completed, except that any document filed on a day that the court is not open for business, or after 5:00 p.m. (Pacific Time) on a day the court is open for business, **shall be deemed to have been filed on the next court day.**

Please be advised that you must schedule a motion hearing date directly with the Independent Calendar Department. A motion filed without an appointment, even when a conformed copy of the filing is provided by the court, is not scheduled and the hearing will not occur.

If a hearing is set within 2 court days of the time documents are electronically filed, litigant(s) must provide hard copies of the documents to the court. Transaction ID numbers must be noted on the documents to the extent it is feasible to do so. Hard copies for Ex Parte hearings must be delivered directly to the department on or before 12 Noon the court day immediately preceding the hearing date.

An original of all documents filed electronically, including original signatures, shall be maintained by the party filing the document, pursuant to CRC 2.257.

**DOCUMENTS INELIGIBLE FOR ELECTRONIC FILING** The following documents are **not eligible for eFiling** in cases subject to either mandatory or permissive filing, and shall be filed in paper form:

- Safe at Home Name Change Petitions
- Civil Harassment TRO/RO
- Workplace Violence TRO/RO
- Elder Abuse TRO/RO

- Transitional Housing Program Misconduct TRO/RO
- School Violence Prevention TRO/RO
- Out-of-State Commission Subpoena
- Undertaking/Surety Bonds
- Request for Payment of Trust Funds
- Writs
- Notice of Appeal of Labor Commissioner
- Abstracts
- Warrants
- Settlement Conference Briefs (to be lodged)
- Confidential documents lodged conditionally under seal
- Interpleader actions pursuant to CC2924j

The following documents **may be filed in paper form**, unless the court expressly directs otherwise:

- Documents filed under seal or provisionally under seal pursuant to CRC 2.551 (although the motion to file under seal itself must be electronically filed)
- Exhibits to declarations that are real objects, i.e., construction materials, core samples, etc. or other documents, i.e. plans, manuals, etc., which otherwise may not be comprehensibly viewed in an electronic format may be filed in paper form

#### **DOCUMENTS DISPLAYED ON THE PUBLIC-FACING REGISTER OF ACTIONS**

Any documents submitted for eFiling (and accepted) will be filed and displayed on the San Diego Superior Court's public-facing Register of Actions with the exception of the following documents:

- CASp Inspection Report

- Confidential Cover Sheet False Claims Action
- Confidential Statement of Debtor's Social Security Number
- Financial Statement
- Request for Accommodations by Persons with Disabilities and Court's Response
- Defendant/Respondent Information for Order Appointing Attorney Under Service Members Civil Relief Act
- Request to Waive Court Fees
- Request to Waive Additional Court Fees

Documents not included in the list above, that are intended to be kept confidential, should NOT be eFiled with the court.

# EXHIBIT C



**Service of Process  
Transmittal**

06/20/2014

CT Log Number 525181975

**TO:** Jill M Calafiore, Rm 3A119A  
AT&T Corp.  
One AT&T Way-  
Bedminster, NJ 07921-

**RE: Process Served in California**

**FOR:** AT&T Mobility Services LLC (Domestic State: DE)

**ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:**

**TITLE OF ACTION:** Tran K. Ly, Individually and on Behalf of Other Members of the Public Similarly Situated, Pltf. vs. AT&T Mobility Services LLC, et al., Dfts.

**DOCUMENT(S) SERVED:** Summons, First Amended Complaint, Exhibit(s), Complaint, Cover Sheet, Instructions, Notice, Alternative Dispute Resolution Information, Stipulation, General Order

**COURT/AGENCY:** San Diego County - Superior Court - San Diego, CA  
Case # 37201400013654CUOECTL

**NATURE OF ACTION:** Class action - Defendant's failure or refusal to pay all wages due and owing to the employee's

**ON WHOM PROCESS WAS SERVED:** C T Corporation System, Los Angeles, CA

**DATE AND HOUR OF SERVICE:** By Process Server on 06/20/2014 at 14:30

**JURISDICTION SERVED :** California

**APPEARANCE OR ANSWER DUE:** Earliest Answer Date - Within 30 days (Document(s) may contain additional answer dates)

**ATTORNEY(S) / SENDER(S):** Diane E. Richard  
Robbins Arroyo LLP  
600 B Street  
Suite 1900  
San Diego, CA 92101  
619-525-3990

**ACTION ITEMS:** CT has retained the current log, Retain Date: 06/21/2014, Expected Purge Date: 07/01/2014  
Image SOP  
Email Notification, Jill M Calafiore jcalafiore@att.com

**SIGNED:** C T Corporation System  
**PER:** Nancy Flores  
**ADDRESS:** 818 West Seventh Street  
Los Angeles, CA 90017  
**TELEPHONE:** 213-337-4615

6/20/14 2:30

SUM-100

**SUMMONS AS TO COMPLAINT  
(CITACION JUDICIAL) AND FIRST****NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):** **AMENDED COMPLAINT****AT&T MOBILITY SERVICES LLC, AT&T MOBILITY LLC, and  
DOES 1-10, Inclusive****YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):****TRAN K. LY, Individually and on Behalf of Other Members of the  
Public Similarly Situated**FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego**04/30/2014 at 02:43:26 PM**Clerk of the Superior Court  
By Bernice Orihuela, Deputy Clerk**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de extensión de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

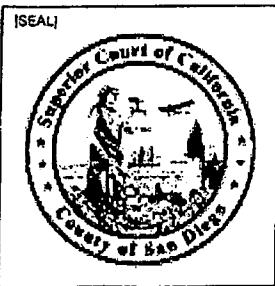
The name and address of the court is:  
(El nombre y dirección de la corte es): **San Diego Superior Court**  
**330 West Broadway**  
**San Diego, CA 92101**

CASE NUMBER:  
(Número del Caso): **37-2014-00013654-CU-0E-CTL**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
**Diane E. Richard, Robbins Arroyo LLP, 600 B Street, Suite 1900, San Diego, CA 92101; (619) 525-3990**

DATE: **05/01/2014**  
(Fecha)Clerk, by B. Orihuela Deputy  
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

**NOTICE TO THE PERSON SERVED: You are served**

1. ☐ as an individual defendant.  
2. ☐ as the person sued under the fictitious name of (specify):

3. ☒ on behalf of (specify): **AT&T mobility services, LLC**  
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)  
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)  
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)  
☒ other (specify): **Limited Liability company**  
4. ☒ by personal delivery on (date): **6/20/14**

1 ROBBINS ARROYO LLP  
BRIAN J. ROBBINS (SB# 190264)  
2 DIANE E. RICHARD (SB# 204897)  
600 B Street, Suite 1900  
3 San Diego, CA 92101  
Telephone: (619) 525-3990  
4 Facsimile: (619) 525-3991  
brobbins@robbinsarroyo.com  
5 drichard@robbinsarroyo.com

6 THE DENTE LAW FIRM  
MATTHEW S. DENTE (SB# 241547)  
7 600 B Street, Suite 1900  
San Diego, CA 92101  
8 Telephone: (619) 550-3475  
Facsimile: (619) 342-9668  
9 matt@dentelaw.com

10 Attorneys for Plaintiff Tran K. Ly

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA

12 COUNTY OF SAN DIEGO

13 TRAN K. LY, Individually and on Behalf of  
Other Members of the Public Similarly  
14 Situated,

15 Plaintiff,

16 v.

17 AT&T MOBILITY SERVICES LLC,  
AT&T MOBILITY LLC, and  
18 DOES 1-10, Inclusive,

19 Defendants.

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego

**06/04/2014** at 03:57:00 PM

Clerk of the Superior Court  
By Calvin Beutler, Deputy Clerk

Case No. 37-2014-00013654-CU-OE-CTL

**CLASS ACTION AS TO PLAINTIFF'S  
FIRST THROUGH SEVENTH CAUSES  
OF ACTION**

**CALIFORNIA LABOR CODE PRIVATE  
ATTORNEYS GENERAL ACT OF 2004  
ACTION AS TO PLAINTIFF'S EIGHTH  
THROUGH FIFTEENTH CAUSES OF  
ACTION**

**FIRST AMENDED COMPLAINT FOR:**

- 20 (1) FAILURE TO PAY MINIMUM  
WAGES;  
21 (2) FAILURE TO PAY OVERTIME  
WAGES;  
22 (3) FAILURE TO AUTHORIZE AND  
PERMIT PAID REST PERIODS;  
23 (4) FAILURE TO PROVIDE MEAL  
PERIODS;  
24 (5) FAILURE TO PAY WAGES TIMELY  
UPON SEPARATION OF  
25 EMPLOYMENT;  
26 (6) FAILURE TO PROVIDE AND  
MAINTAIN COMPLIANT ITEMIZED  
WAGE STATEMENTS;  
27 (7) UNFAIR COMPETITION;  
28 (8) VIOLATION OF LABOR CODE  
SECTION 1197 BROUGHT UNDER  
THE LABOR CODE PRIVATE

- ATTORNEYS GENERAL ACT OF 2004 (CAL. LAB. CODE SECTION 2698, ET SEQ.);
- (9) VIOLATION OF LABOR CODE SECTION 510 BROUGHT UNDER THE LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004 (CAL. LAB. CODE SECTION 2698, ET SEQ.);
- (10) VIOLATION OF LABOR CODE SECTION 226.7(B) BROUGHT UNDER THE LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004 (CAL. LAB. CODE SECTION 2698, ET SEQ.);
- (11) VIOLATIONS OF LABOR CODE SECTIONS 226.7(B) AND 512 BROUGHT UNDER THE LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004 (CAL. LAB. CODE SECTION 2698, ET SEQ.);
- (12) VIOLATIONS OF LABOR CODE SECTIONS 201, 202, AND 203 BROUGHT UNDER THE LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004 (CAL. LAB. CODE SECTION 2698, ET SEQ.);
- (13) VIOLATION OF LABOR CODE SECTION 226(A) BROUGHT UNDER THE LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004 (CAL. LAB. CODE SECTION 2698, ET SEQ.);
- (14) VIOLATION OF LABOR CODE SECTION 204 BROUGHT UNDER THE LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004 (CAL. LAB. CODE SECTION 2698, ET SEQ.); AND
- (15) VIOLATION OF LABOR CODE SECTION 1198 BROUGHT UNDER THE LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004 (CAL. LAB. CODE SECTION 2698, ET SEQ.)

**DAMAGES EXCEED \$25,000**  
**DEMAND FOR JURY TRIAL**

**[IMAGED FILE]**

Date Action Filed: April 30, 2014  
Judge: Honorable Joel R. Wohlfeil  
Dept.: C-73

1 COMES NOW Plaintiff Tran K. Ly ("Plaintiff"), on behalf of herself and as a  
2 representative of employees of AT&T Mobility Services LLC and AT&T Mobility LLC  
3 (collectively, "AT&T Mobility") and Does 1-10, inclusive, (collectively, with AT&T Mobility,  
4 "Defendants") and asserts the following claims:

5 1. This is a class action brought for violations of the California Labor Code  
6 pertaining to the issuance and maintenance of noncompliant itemized wage statements, failure to  
7 pay proper meal and rest premiums at the true regular rate of pay, failure to pay all required  
8 wages for all time worked arising for the time periods employees spend waiting for the issuance  
9 and return of electronic devices (e.g., iPads) and for the time periods employees spend waiting to  
10 be released from work at the end of closing shifts, and for failure to pay all wages due and owing  
11 upon separation of employment.

12 2. This is further a private attorneys general action brought under the California  
13 Labor Code Private Attorneys General Act of 2004 codified in California Labor Code §2698, *et*  
14 *seq.* ("PAGA"). On April 30, 2014, Plaintiff filed an exhaustion letter with the California Labor  
15 and Workforce Development Agency ("LWDA"), AT&T Mobility Services LLC, and AT&T  
16 Mobility LLC providing notice of her intent to bring a private attorneys general action for  
17 recovery of penalties under PAGA. *See Arias v. Superior Court*, 46 Cal. 4th 969 (2009). PAGA  
18 permits an "aggrieved employee" to bring a lawsuit for civil penalties arising from violations of  
19 California's Labor Code committed against himself or herself and other current and former  
20 employees, as a private attorney general, to address an employer's violations of the California  
21 Labor Code. *Id.* at 980-81. More than thirty-three days have elapsed since Plaintiff served the  
22 PAGA notice without the LWDA providing notice of its intent to investigate, and further without  
23 AT&T Mobility Services LLC, and/or AT&T Mobility LLC providing notice that they have  
24 cured any of the alleged violations as may be applicable. Accordingly, Plaintiff brings a PAGA  
25 enforcement action as alleged herein.

26 3. Plaintiff is, and at all times mentioned in this Complaint was, a resident of San  
27 Diego, California.

1           4.     Upon information and belief, defendant AT&T Mobility Services LLC is a  
2 Delaware corporation with principal executive offices in Georgia. AT&T Mobility Services  
3 LLC is currently registered to do business in the state of California and does business in San  
4 Diego, California.

5           5.     Upon information and belief, defendant AT&T Mobility LLC is a Delaware  
6 corporation with principal executive offices in Georgia. AT&T Mobility, LLC is currently  
7 registered to do business in the state of California and does business in San Diego, California.

8           6.     Upon information and belief, defendants AT&T Mobility are employers whose  
9 employees are engaged throughout San Diego County and the state of California.

10          7.     Whenever in this Complaint reference is made to any act, deed, or conduct of  
11 AT&T Mobility, the allegation means that AT&T Mobility engaged in the act, deed, or conduct  
12 by or through one or more of its officers, directors, agents, employees, or representatives, who  
13 was actively engaged in the management, direction, control, or transaction of the ordinary  
14 business and affairs of AT&T Mobility.

15          8.     Plaintiff is ignorant of the true names and capacities, whether individual,  
16 corporate, associate, or otherwise, of the defendants sued herein as Does 1-10, inclusive and  
17 therefore sues said defendants by such fictitious names ("Doe Defendants"). Plaintiff will amend  
18 this Complaint to insert the true names and capacities of the Doe Defendants at such time as the  
19 identities of the Doe Defendants are ascertained.

20          9.     Plaintiff is informed and believes, and thereon alleges, that the Doe Defendants  
21 are the partners, agents, or principals and/or co-conspirators of AT&T Mobility, and of each  
22 other; that AT&T Mobility and the Doe Defendants performed the acts and conduct herein  
23 alleged directly, aided and abetted the performance thereof, or knowingly acquiesced in, ratified,  
24 and accepted the benefits of such acts and conduct, and therefore each of the Doe Defendants is  
25 liable to the extent of the liability of AT&T Mobility as alleged herein.

26          10.    Plaintiff is further informed and believes, and thereon alleges, that at all times  
27 herein material, each defendant was completely dominated and controlled by its co-defendants  
28 and each was the alter ego of the other. Whenever and wherever reference is made in this

1 Complaint to any conduct by AT&T Mobility or Defendants, such allegations and references  
 2 shall also be deemed to mean the conduct of each of the Defendants, acting individually, jointly,  
 3 and severally. Whenever and wherever reference is made to individuals who are not named as  
 4 defendants in this Complaint, but were employees and/or agents of Defendants, such individuals  
 5 at all relevant times acted on behalf of Defendants named in this Complaint within the scope of  
 6 their respective employments.

### 7 CLASS ACTION ALLEGATIONS

8 11. Plaintiff brings her claim for relief in this action on behalf of herself as well as on  
 9 behalf of each and all other persons similarly situated, and thus, seeks class certification under  
 10 California Code of Civil Procedure §382.

11 12. All claims alleged herein arise under California law for which Plaintiff seeks  
 12 relief as authorized by California law.

13 13. With respect to Plaintiff's First through Seventh Causes of Action, the proposed  
 14 Classes and Sub Class are comprised of and defined as:

15 Any and all persons who are or were employees of AT&T Mobility LLC and/or  
 16 AT&T Mobility Services LLC in the state of California within one year prior to  
 17 the filing of the Complaint in this action until resolution of this lawsuit and who  
 received a paystub (hereinafter collectively referred to as the "Pay Stub Class").

18 Any and all persons who are or were non-exempt Retail Sales Consultant  
 19 employees, or equivalent positions however titled, of AT&T Mobility LLC  
 20 and/or AT&T Mobility Services LLC in the state of California within four years  
 prior to the filing of the Complaint in this action until resolution of this lawsuit  
 (hereinafter collectively referred to as the "RSC Class").

21 Any and all persons in the RSC Class whose employment was separated at any  
 22 time within three years prior to the filing of the Complaint in this action until  
 23 resolution of this lawsuit (hereinafter collectively referred to as the "RSC  
 Waiting Time Sub Class").

24 14. The members of the Pay Stub Class, the RSC Class, and the RSC Waiting Time  
 25 Sub Class (collectively, the "Classes" or "Class Members") are so numerous as to make it  
 26 impracticable to bring them all before this Court. Plaintiff is unable to state the exact number of  
 27 the Class Members without discovery of Defendants' books and records, but avers upon  
 28 information and belief that each of the Classes exceed fifty members. The identity of Class

1 Members is readily ascertainable by an inspection of Defendants' employment and payroll  
2 records.

3 15. There are questions of law and fact common to the members of each of the  
4 Classes that predominate over any questions affecting any individual in the Classes. Defendants  
5 have acted, and refused to act, on grounds generally applicable to members of the Classes.

6 16. Plaintiff's claims are typical of the claims of the Class Members and Plaintiff will  
7 fairly and adequately protect the interests of these members.

8 17. The prosecution of separate actions by individual members of the Classes would  
9 create the risk of:

10 (a) Inconsistent or varying adjudications in different jurisdictions with respect  
11 to individual Class Members, which would establish incompatible standards of conduct for  
12 Defendants; and

13 (b) Adjudications with respect to individual Class Members which, as a  
14 practical matter, would be dispositive of the interests and rights of Class Members who are not  
15 parties to the adjudications, or would substantially impair or impede the ability of Class  
16 Members to protect their interests.

17 18. At all times relevant to this action, Defendants have enacted and effected  
18 unlawful and unfair state-wide employment policies and practices which have caused Plaintiff  
19 and members of the Classes to suffer injury. A class action is superior to other available  
20 methods for the fair and efficient adjudication of Defendants' policies and practices and the  
21 damage they caused Plaintiff and members of the Classes to suffer and which are the subject  
22 matter of this action.

23 19. Employers in the State of California violate employment and labor laws every  
24 day. Current employees are often afraid to assert their rights out of fear of direct or indirect  
25 retaliation. Former employees are fearful of bringing actions because they believe their former  
26 employers may damage their future endeavors through negative references and/or other means.  
27 The nature of this action allows for the protection of current and former employees' rights  
28 without fear for retaliation or damage.

20. The claims asserted herein implicate questions of law or fact common to members of the Classes. These common questions predominate over any questions affecting only individual Class Members. Common questions include, but are not limited to:

(a) Whether Defendants failed to maintain and provide Pay Stub Class members with wage statements that complied with the requirements of the California Labor Code §226(a);

(b) Whether Defendants failed to provide members of the RSC Class with proper meal premium pay at the true regular rate of pay as required by California Labor Code §§226.7(c) and 1198 and the applicable California Industrial Welfare Commission ("IWC") Wage Order;

(c) Whether Defendants failed to provide members of the RSC Class with proper rest premium pay at the true regular rate of pay as required by California Labor Code §§226.7(c) and 1198 and the applicable California IWC Wage Order;

(d) Whether Defendants failed to provide members of the RSC Class with all required overtime in violation of California Labor Code §§510 and 1198;

(e) Whether Defendants failed to provide members of the RSC Class with all required minimum wages in violation of California Labor Code §§1197 and 1198 and the applicable California IWC Wage Order;

(f) Whether Defendants unlawfully failed to pay all wages due and owing to RSC Class members, and on a timely manner timely wages to members of the RSC Waiting Time Sub Class in violation of California Labor Code §§201, 202, and 203;

(g) Whether Defendants engaged in unfair competition in violation of California Business and Professions Code §§17200, *et seq.*; and

(h) The appropriate amount of penalties, damages, and restitution resulting from Defendants' violations of California law.

#### **PAGA ALLEGATIONS**

21. This is a PAGA enforcement action as to Plaintiff's Eighth through Fifteenth Causes of Action only for recovery of civil penalties under the PAGA. *See Arias*, 46 Cal. 4th at

1 969. PAGA permits an "aggrieved employee" to bring a lawsuit for civil penalties as a private  
2 attorney general, to address an employer's violations of the California Labor Code committed  
3 against the aggrieved employee and other current and former employees. *Id.* at 980-81. In this  
4 case, Defendants violated California Labor Code §§201, 202, 203, 204, 226(a), 226.7(b), 510,  
5 512, 1197, and 1198 as set forth more fully below. Plaintiff seeks PAGA penalties for the  
6 violations committed against her and Defendants' other current and former California employees.

7 22. Plaintiff's Eighth through Fifteenth Causes of Action are suitable for treatment as  
8 a PAGA action for the following reasons:

9 (a) The violations set forth in Plaintiff's Eighth through Fifteenth Causes of  
10 Action allege violations of the California Labor Code for which the Code provides a civil penalty  
11 to be assessed and recovered by the LWDA or any department, division, commission, boards,  
12 agencies, or employees, or for which a penalty is provided for under California Labor Code  
13 §2699(f);

14 (b) Plaintiff is an "aggrieved employee" because she was employed by the  
15 Defendants and had one or more of the alleged violations committed against her;

16 (c) Plaintiff complied with the requirement to commence a civil action under  
17 California Labor Code §2699.3;

18 (d) Plaintiff complied with the exhaustion requirements of PAGA by  
19 providing notice by certified letter on April 30, 2014, to AT&T Mobility Services LLC, AT&T  
20 Mobility LLC, and the LWDA concerning the PAGA claims Plaintiff intends to pursue. A true  
21 and correct copy of the notice is attached as Exhibit A. More than thirty-three days have elapsed  
22 since Plaintiff served the PAGA notice, and the LWDA has not provided notice of its intent to  
23 investigate, nor has AT&T Mobility LLC or AT&T Mobility Services LLC provided notice that  
24 they have cured any of the alleged violations as may be applicable; and

25 (e) "Current and former employees," for the purposes of the PAGA claims  
26 include any and all non-exempt Retail Sales Consultant employees, or equivalent positions  
27 however titled, of AT&T Mobility LLC and/or AT&T Mobility Services LLC in the State of  
28

1 California, unless a different employee status is noted, at any time during the PAGA statutory  
2 period.

3 **FACTUAL ALLEGATIONS**

4 23. At all times set forth herein, Defendants employed, and continue to employ,  
5 employees throughout the state of California. Upon information and belief, defendant AT&T  
6 Mobility Services LLC is a Delaware corporation with principal executive offices in Georgia.  
7 AT&T Mobility Services LLC is currently registered to do business in the state of California and  
8 does business in San Diego, California.

9 24. Upon information and belief, defendant, AT&T Mobility LLC is Delaware  
10 corporation with principal executive offices in Georgia. AT&T Mobility LLC is currently  
11 registered to do business in the state of California and does business in San Diego, California.

12 25. Upon information and belief, defendants AT&T Mobility provide wireless  
13 services and products and employ persons throughout San Diego County and the state of  
14 California.

15 26. Plaintiff is a former employee of Defendants and worked in San Diego County,  
16 California, until approximately April 21, 2014. At times relevant, she held a non-exempt  
17 employee position of Retail Sales Consultant. Plaintiff worked for Defendants at times during  
18 the relevant period specified herein.

19 27. Plaintiff and other members of the Pay Stub Class, the RSC Class, and the RSC  
20 Waiting Time Sub Class have been at times pertinent hereto, employees of Defendants within the  
21 meaning of the California Labor Code and the implementing rules and regulations of the  
22 California IWC Wage Orders. Plaintiff and other members of the RSC Class and the RSC  
23 Waiting Time Sub Class have been at times pertinent hereto, non-exempt employees of  
24 Defendants within the meaning of the California Labor Code and the implementing rules and  
25 regulations of the California IWC Wage Orders.

26 28. During the relevant time frame, Defendants knowingly and intentionally failed,  
27 and continue to fail, to provide Plaintiff and other members of Pay Stub Class with wage  
28 statements that contained the information required by California Labor Code §226(a). The wage

1 statements Defendants have provided to Plaintiff and other employees in Pay Stub Class fail to,  
2 among other things, on their face correctly state the work dates for which payments are being  
3 paid including overtime wages, commissions, and adjustments, and accurately itemize the total  
4 hours worked and all applicable hourly rates in effect during the pay period and the  
5 corresponding number of hours worked at each hourly rate in effect each pay period. For  
6 example, the wage statements, on their face, fail to identify a rate of pay, hours worked, and time  
7 periods for "true up payments" and "additional adjustments;" fail to have corresponding time  
8 periods listed for each time period that non-base payments are being made such as overtime and  
9 commissions; fail to accurately itemize the total hours worked; and fail to accurately state the  
10 rate of pay for meal and rest premiums in that the premium payments are not based on the  
11 employees' true regular rate of pay but rather only their base pay. Additionally, the wage  
12 statements fail to accurately itemize hours worked and gross and net wages earned in that for  
13 RSC Class members, the wage statements omit some hours worked and wages earned as a result  
14 of these employees not being paid for all time spent working while waiting for procedures to be  
15 completed for electronic devices and closing. Furthermore, the wage statements omit required  
16 information about the employer legal entities in that the wage statements identify AT&T  
17 Mobility Services LLC as the employer but fail to identify AT&T Mobility LLC as an employer.  
18 AT&T Mobility LLC is identified in a Labor Agreement between AT&T Mobility LLC and the  
19 Communication Workers of America as an employer of persons covered by that agreement.

20 29. During the relevant time frame, Plaintiff and RSC Class members have been  
21 systematically denied all extra hours of pay, at these employees' true regular rates of pay, as  
22 required by California law where meal periods were not provided and rest periods not authorized  
23 and permitted. Rather, when Defendants did pay the extra hours of pay, Defendants did so at the  
24 employees' base regular rate of pay and not their true regular rate of pay which includes  
25 commissions, incentive pay, and other forms of compensation that is factored into the calculation  
26 of the employees' regular rate of pay.

27 30. During the relevant time frame, Plaintiff and RSC Class members were not  
28 exempt from receiving the applicable minimum wages and overtime wages. Notwithstanding

1 this, these persons had their rights violated through Defendants' failure to pay applicable  
 2 minimum, overtime, and regular wages. Such violations resulted from Defendants' conduct  
 3 which includes, but is not limited to: (i) failing to pay for all time worked arising from time spent  
 4 waiting for issuance and return of electronic devices (e.g., iPads) for work; and (ii) failing to pay  
 5 for all time worked to closing shift RSC Class members arising from time spent waiting to be  
 6 released from work at the end of closing shifts as a result of procedures such as lock-up, closing  
 7 up, and alarming procedures.

8 31. During the relevant time frame, Plaintiff and RSC Waiting Time Sub Class  
 9 members each were required to be paid timely upon separation of employment in accordance  
 10 with California Labor Code §§201, 202, and 203. Defendants, through their actions including  
 11 those alleged herein of not paying proper wages, wilfully have not paid these employees all  
 12 wages due during upon separation of employment.

13 32. On or about April 30, 2014, Plaintiff requested her employment records from  
 14 AT&T Mobility Services LLC and AT&T Mobility LLC, including time and wage statement  
 15 records, and compensation plan documents. As of the date of this filing, AT&T Mobility  
 16 Services LLC nor AT&T Mobility LLC had provided Plaintiff with the requested records, in  
 17 violation of the California Labor Code's and IWC Wage Order's requirements to do so.

18 33. During the relevant time frame, Defendants engaged in unlawful conduct, and  
 19 unfair competition resulting in injury to Plaintiff and, on information and belief, others through  
 20 their violation of California's wage and hour laws alleged herein.

## 21 CLASS ACTION CLAIMS

### 22 FIRST CAUSE OF ACTION

#### 23 **Class Claim for Violation of California Labor Code §1197 Against All Defendants** 24 **(Minimum Wage Claim)**

25 34. Plaintiff repeats and incorporates herein by reference each and every allegation  
 26 contained above, as though fully set forth herein.

1           35. California Labor Code §1197 specifies that an employer engages in an unlawful  
2 act if it pays employees an amount less than the lawful minimum wage fixed by the California  
3 IWC Wage Order.

4           36. The "Minimum Wages" section of the applicable California IWC Wage Order  
5 makes it unlawful for an employer to pay less than the applicable minimum wage for all hours  
6 worked, whether the remuneration is measured by time, piece, commission, or otherwise.

7           37. During times relevant, Defendants failed to pay, at least minimum wages for all  
8 hours worked, to Plaintiff and members of the RSC Class. This occurred as a result of  
9 Defendants' conduct of, among other things: (i) failing to pay for all time worked arising from  
10 time spent waiting for issuance and return of electronic devices (e.g., iPads) for work; and (ii)  
11 failing to pay for all time worked to closing shift RSC Class members arising from time spent  
12 waiting to be released from work at the end of closing shifts as a result of procedures such as  
13 lock-up, closing up, and alarming procedures.

14           38. California Labor Code §§201 and 202 set forth timing requirements for the  
15 payment of wages to employees who are separating employment. A violation of California  
16 Labor Code §§201 and/or 202 results in payment waiting time penalties under California Labor  
17 Code §203.

18           39. During times relevant, Defendants failed to pay Plaintiff and members of the RSC  
19 Waiting Time Sub Class wages timely in conformance with the requirements set forth in  
20 California Labor Code §§201 and 202, as applicable.

21           40. For this violation, Plaintiff and members of the RSC Class are entitled to and seek  
22 the payment of the unlawfully withheld minimum wages and further seek recovery of any and all  
23 available remedies to the extent permissible including recovery of interest, attorneys' fees and  
24 costs, and liquidated damages relating to any unpaid minimum wages under California Labor  
25 Code §§1194 and 1194.2. Further, Plaintiff and members of the RSC Waiting Time Sub Class  
26 who have not been paid timely within the statutory period set forth in California Labor Code  
27 §§201 and 202 are entitled to and seek recovery of penalties under California Labor Code §203.

28

**SECOND CAUSE OF ACTION**

**Class Claim for Violation of California Labor Code §510 Against All Defendants  
(Overtime Claim)**

41. Plaintiff repeats and incorporates herein by reference each and every allegation contained above, as though fully set forth herein.

42. California Labor Code §510(a) provides in relevant part with respect to non-exempt employees:

Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

43. During times relevant, Defendants failed to pay overtime wages for all hours worked to Plaintiff and members of the RSC Class. This occurred as a result of Defendants' conduct of, among other things: (i) failing to pay for all time worked arising from time spent waiting for issuance and return of electronic devices (e.g., iPads) for work; and (ii) failing to pay for all time worked to closing shift RSC Class members arising from time spent waiting to be released from work at the end of closing shifts as a result of procedures such as lock-up, closing up, and alarming procedures.

44. California Labor Code §§201 and 202 set forth timing requirements for the payment of wages to employees who are separating employment. A violation of California Labor Code §§201 and/or 202 results in payment waiting time penalties under California Labor Code §203.

45. During times relevant, Defendants failed to pay Plaintiff and members of the RSC Waiting Time Sub Class wages timely in conformance with the requirements set forth in California Labor Code §§201 and 202, as applicable.



1 compensation not taking into account other compensation that forms the regular rate of  
2 compensation such as commissions and incentive pay.

3 51. For this violation, Plaintiff and members of the RSC Class are entitled to and seek  
4 one hour of premium pay at the employees' true regular rate of compensation for each day in  
5 which a paid rest period was not authorized and permitted, and further seek recovery of any and  
6 all available remedies to the extent permissible including recovery of interest, attorneys' fees, and  
7 costs.

#### 8 **FOURTH CAUSE OF ACTION**

##### 9 **Class Claim for Violations of California Labor Code §§226.7(b) Against All Defendants** 10 **(Meal Period Claim)**

11 52. Plaintiff repeats and incorporates herein by reference each and every allegation  
12 contained above, as though fully set forth herein.

13 53. California Labor Code §226.7(b) makes it unlawful for an employer to require  
14 any employee to work during any meal period mandated by an applicable California IWC Wage  
15 Order. California Labor Code §1198 additionally makes it unlawful to employ persons under  
16 conditions prohibited by a Wage Order. The "Meal Periods" section of the applicable Wage  
17 Order provides the following in relevant part:

18 No employer shall employ any person for a work period of more than five (5)  
19 hours without a meal period of not less than 30 minutes, except that when a work  
20 period of not more than six (6) hours will complete the day's work the meal period  
21 may be waived by mutual consent of the employer and employee. Unless the  
22 employee is relieved of all duty during a 30 minute meal period, the meal period  
23 shall be considered an "on duty" meal period and counted as time worked. An  
24 "on duty" meal period shall be permitted only when the nature of the work  
25 prevents an employee from being relieved of all duty and when by written  
26 agreement between the parties an on-the-job paid meal period is agreed to. The  
27 written agreement shall state that the employee may, in writing, revoke the  
28 agreement at any time.... If an employer fails to provide an employee a meal  
period in accordance with the applicable provisions of this order, the employer  
shall pay the employee one (1) hour of pay at the employee's regular rate of  
compensation for each work day that the meal period is not provided.



1 Plaintiff and members of the RSC Waiting Time Sub Class their wages, earned and unpaid,  
 2 either at the time of discharge, or within seventy-two hours of their voluntarily leaving  
 3 Defendants' employ. Premium, regular, and minimum wages were improperly unpaid, but upon  
 4 separation, Defendants also failed to pay earned and calculable wages due and owing within the  
 5 time frame specified by California Labor Code §§201 and 202.

6 60. Defendants' willful failure to pay Plaintiff and RSC Waiting Time Sub Class  
 7 members their wages earned and unpaid at the time of discharge, or within seventy-two hours of  
 8 their voluntarily leaving Defendants' employ, violates California Labor Code §§201 and 202, as  
 9 applicable. As a result, Defendants are liable to Plaintiff and members of the RSC Waiting Time  
 10 Sub Class for waiting time penalties under California Labor Code §203, in an amount according  
 11 to proof at the time of trial.

#### 12 **SIXTH CAUSE OF ACTION**

#### 13 **Class Claim for Violation of California Labor Code §226(a) Against All Defendants** 14 **(Pay Stub Claim)**

15 61. Plaintiff repeats and incorporates herein by reference each and every allegation  
 16 contained above, as though fully set forth herein.

17 62. California Labor Code §226(a) sets forth reporting requirements for employers  
 18 when they pay wages. In relevant part, it states:

19 Every employer shall ... at the time of each payment of wages, furnish each of his  
 20 or her employees ... an accurate itemized statement in writing showing (1) gross  
 21 wages earned, (2) total hours worked by the employee, except for any employee  
 22 whose compensation is solely based on a salary and who is exempt from payment  
 23 of overtime under subdivision (a) of Section 515 or any applicable order of the  
 24 Industrial Welfare Commission, (3) the number of piece-rate units earned and any  
 25 applicable piece rate if the employee is paid on a piece-rate basis, (4) all  
 26 deductions, provided that all deductions made on written orders of the employee  
 27 may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive  
 28 dates of the period for which the employee is paid, (7) the name of the employee  
 and only the last four digits of his or her social security number or an employee  
 identification number other than a social security number, (8) the name and  
 address of the legal entity that is the employer ..., and (9) all applicable hourly  
 rates in effect during the pay period and the corresponding number of hours  
 worked at each hourly rate by the employee....

California Labor Code §226(e) provides:

1 An employee suffering injury as a result of a knowing and intentional failure by  
 2 an employer to comply with subdivision (a) is entitled to recover the greater of all  
 3 actual damages or fifty dollars (\$50) for the initial pay period in which a violation  
 4 occurs and one hundred dollars (\$100) per employee for each violation in a  
 subsequent pay period, not to exceed an aggregate penalty of four thousand  
 dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's  
 fees.

5 California Labor Code §226(e)(2)(B) provides:

6 An employee is deemed to suffer injury for purposes of this subdivision if the  
 7 employer fails to provide accurate and complete information as required by any  
 8 one or more of items (1) to (9), inclusive, of subdivision (a) and the employee  
 9 cannot promptly and easily determine from the wage statement alone one or more  
 10 of the following: (i) The amount of the gross wages or net wages paid to the  
 11 employee during the pay period or any of the other information required to be  
 12 provided on the itemized wage statement pursuant to items (2) to (4), inclusive,  
 (6), and (9) of subdivision (a)[;] (ii) Which deductions the employer made from  
 gross wages to determine the net wages paid to the employee during the pay  
 period. Nothing in this subdivision alters the ability of the employer to aggregate  
 deductions consistent with the requirements of item (4) of subdivision (a)[;] (iii)  
 13 The name and address of the employer and, if the employer is a farm labor  
 contractor, as defined in subdivision (b) of Section 1682, the name and address of  
 14 the legal entity that secured the services of the employer during the pay period[;  
 and] (iv) The name of the employee and only the last four digits of his or her  
 15 social security number or an employee identification number other than a social  
 security number.

16  
 17 63. During the relevant time frame, Defendants knowingly and intentionally failed,  
 18 and continue to fail, to provide Plaintiff and other members of Pay Stub Class with wage  
 19 statements that contained the information required by California Labor Code §226(a). The wage  
 20 statements Defendants have provided to Plaintiff and other employees in Pay Stub Class fail to,  
 21 among other things, on their face correctly state the work dates for which payments are being  
 22 paid including overtime wages, commissions, and adjustments, and accurately itemize the total  
 23 hours worked and all applicable hourly rates in effect during the pay period and the  
 24 corresponding number of hours worked at each hourly rate in effect each pay period. For  
 25 example, the wage statements, on their face, fail to identify a rate of pay, hours worked, and time  
 26 periods for "true up payments" and "additional adjustments;" fail to have corresponding time  
 27 periods listed for each time period that non-base payments are being made such as overtime and  
 28 commissions; fail to accurately itemize the total hours worked; and fail to accurately state the

1 rate of pay for meal and rest premiums in that the premium payments are not based on the  
2 employees' true regular rate of pay but rather only their base pay. Additionally, the wage  
3 statements fail to accurately itemize hours worked and gross and net wages earned in that for  
4 RSC Class members, the wage statements omit some hours worked and wages earned as a result  
5 of these employees' not being paid for all time spent working while waiting for procedures to be  
6 completed for electronic devices and closing. Furthermore, the wage statements omit required  
7 information about the employer legal entities in that the wage statements identify AT&T  
8 Mobility Services LLC as the employer but fail to identify AT&T Mobility LLC as an employer.  
9 AT&T Mobility LLC is identified in a Labor Agreement between AT&T Mobility LLC and the  
10 Communication Workers of America as an employer of persons covered by that agreement.

11 64. Plaintiff and other Pay Stub Class members have been injured, as defined by  
12 California Labor Code §226, by these omissions and inaccuracies.

13 65. Defendants knowingly and intentionally failed, and continue to fail, to furnish  
14 Plaintiff and Pay Stub Class members complete and accurate wage statements upon each  
15 payment of wages in violation of California Labor Code §226(a). Plaintiff and Pay Stub Class  
16 members have been injured and damaged by these failures because, among other things, it  
17 renders them unable to determine whether Defendants properly recorded their hours worked and  
18 makes it impossible to tell whether they were properly compensated for all pay earned at the  
19 proper rates and during the applicable pay period. Plaintiff and, on information and belief, Pay  
20 Stub Class members are required to engage in discovery and mathematical computations to  
21 reconstruct their time records to determine if they were paid correctly as a result of the inaccurate  
22 and/or incomplete wage statements. Plaintiff and, on information and belief, Pay Stub Class  
23 members cannot easily ascertain from the information provided to them through the wage  
24 statements whether his or her wages and hours have been calculated correctly. Accordingly,  
25 Plaintiff and, on information and belief, Pay Stub Class members cannot promptly and easily  
26 determine from the wage statement alone the information set forth in California Labor Code  
27 §226(e)(2)(B) to assure that he or she is not being underpaid and have had to refer to other  
28 documents and information to attempt to ascertain this information.

67. AT&T Mobility moreover failed to permit Plaintiff to inspect or copy wage statement records within the time set forth in subdivision (c) of California Labor Code §226, entitling Plaintiff recover a \$750 penalty from the employer as set forth in California Labor Code §226(f). On information and belief, AT&T Mobility LLC have refused others in the Pay Stub Class their right under California Labor Code §226(c), entitling said employees to recover a \$750 penalty from the employer as set forth in California Labor Code §226(f).

### SEVENTH CAUSE OF ACTION

69. Plaintiff repeats and incorporates herein by reference each and every allegation  
contained above, as though fully set forth herein.

71. Defendants' policies, activities, and actions as alleged herein are violations of California law and constitute unlawful business acts and practices in violation of California Business and Professions Code §§17200, *et seq.*

1 and practices of not paying proper wages, and not providing compliant additional hours of pay  
 2 for meal and rest premiums, among the other statutory violations alleged herein, over the past  
 3 four years violates California Labor Code §§226.7, 510, 1197, and 1198 among other statutes.

4 73. Plaintiff and members of the RSC Class have been personally aggrieved and  
 5 injured by Defendants' unlawful and unfair business acts and practices alleged herein by the loss  
 6 of money and/or property.

7 74. Pursuant to California Business and Professions Code §§17200, *et seq.*, Plaintiff  
 8 and members of the RSC Class are entitled to restitution of the wages withheld and retained by  
 9 Defendants during a period that commences four years prior to the filing of this Complaint, an  
 10 award of attorneys' fees pursuant to California Code of Civil Procedure §1021.5, and an award of  
 11 costs.

#### 12 **PAGA ACTION CLAIMS**

#### 13 **EIGHTH CAUSE OF ACTION**

#### 14 **For Violation of California Labor Code §1197 Brought Under PAGA** 15 **Against AT&T Mobility by Plaintiff on a Private Attorneys General Basis** 16 **(PAGA Minimum Wage Claim)**

17 75. Plaintiff repeats and incorporates herein by reference each and every allegation  
 18 contained above, as though fully set forth herein.

19 76. During the year immediately preceding the date of Plaintiff's PAGA exhaustion  
 20 letter, AT&T Mobility paid to Plaintiff and other of AT&T Mobility's current and former  
 21 employees a less wage than the minimum fixed by the IWC in the "Minimum Wages" section of  
 22 the applicable California IWC Wage Order. By doing so, AT&T Mobility violated California  
 23 Labor Code §1197.

24 77. PAGA, specifically California Labor Code §2699(a), allows Plaintiff to recover  
 25 civil penalties for the violation of provisions of the California Labor Code that contain their own  
 26 civil penalties. California Labor Code §§1197.1 and 2699 contain the civil penalties collectable  
 27 under the PAGA for violation of California Labor Code §1197. Accordingly, Plaintiff seeks the  
 28

1 civil penalties permitted through California Labor Code §§1197.1 and 2699 for AT&T Mobility's  
2 violation of California Labor Code §1197.

3 78. Plaintiff requests penalties against AT&T Mobility for its violation of California  
4 Labor Code §1197 as provided under PAGA, plus reasonable attorneys' fees and costs, in  
5 amounts to be proven at trial.

6 **NINTH CAUSE OF ACTION**

7 **For Violation of California Labor Code §510 Brought Under PAGA**  
8 **Against AT&T Mobility by Plaintiff on a Private Attorneys General Basis**  
9 **(PAGA Overtime Claim)**

10 79. Plaintiff repeats and incorporates herein by reference each and every allegation  
11 contained above, as though fully set forth herein.

12 80. AT&T Mobility failed to pay required overtime compensation in accordance with  
13 California Labor Code §510.

14 81. During the year immediately preceding the date of Plaintiff's PAGA exhaustion  
15 letter, AT&T Mobility failed to compensate Plaintiff and other California current and former  
16 employees a proper overtime rate for hours worked in excess of eight in a day or forty in a week.

17 82. PAGA, specifically California Labor Code §2699(a), allows Plaintiff to recover  
18 civil penalties for the violation of provisions of the California Labor Code that contain their own  
19 civil penalties. California Labor Code §§558 and 2699 contain the civil penalties collectable  
20 under the PAGA for violation of California Labor Code §510. Accordingly, Plaintiff seeks the  
21 civil penalties permitted through California Labor Code §§558 and 2699 for AT&T Mobility's  
22 violation of California Labor Code §510.

23 83. Plaintiff requests penalties against AT&T Mobility for its violation of California  
24 Labor Code §510 as provided under PAGA, plus reasonable attorneys' fees and costs, in amounts  
25 to be proven at trial.

**TENTH CAUSE OF ACTION**

**For Violation of California Labor Code §226.7(b) Brought Under PAGA  
Against AT&T Mobility by Plaintiff on a Private Attorneys General Basis  
(PAGA Rest Period Claim)**

84. Plaintiff repeats and incorporates herein by reference each and every allegation contained above, as though fully set forth herein.

85. During the year immediately preceding the date of Plaintiff's PAGA exhaustion letter, AT&T Mobility failed to authorize and permit paid rest periods to Plaintiff and other of AT&T Mobility's California current and former employees in violation of the "Rest Periods" section of the applicable California IWC Wage Order. By failing to authorize and permit paid rest periods to Plaintiff and other of AT&T Mobility's California current and former employees in violation of the "Rest Periods" section of the applicable California IWC Wage Order, AT&T Mobility violated California Labor Code §226.7(b).

86. PAGA, specifically California Labor Code §2699(a), allows Plaintiff to recover civil penalties for the violation of provisions of the California Labor Code that contain their own civil penalties. California Labor Code §§558 and 2699 contain the civil penalties collectable under the PAGA for violation of California Labor Code §226.7(b). Accordingly, Plaintiff seeks the civil penalties permitted through California Labor Code §§558 and 2699 for AT&T Mobility's violation of California Labor Code §226.7(b).

87. Plaintiff requests penalties against AT&T Mobility for its violation of California Labor Code §226.7(b) as provided under PAGA, plus reasonable attorneys' fees and costs, in amounts to be proven at trial.

**ELEVENTH CAUSE OF ACTION**

**For Violations of California Labor Code §§226.7(b) and 512 Brought Under PAGA  
Against AT&T Mobility by Plaintiff on a Private Attorneys General Basis  
(PAGA Meal Period Claim)**

88. Plaintiff repeats and incorporates herein by reference each and every allegation contained above, as though fully set forth herein.

89. During the year immediately preceding the date of Plaintiff's PAGA exhaustion letter, AT&T Mobility failed to authorize and provide first and, when applicable, second meal periods to Plaintiff and other of AT&T Mobility's California current and former employees in violation of the "Meal Periods" section of the applicable California IWC Wage Order and §512 of the California Labor Code. By failing to authorize and provide meal periods to Plaintiff and other of AT&T Mobility's California current and former employees, AT&T Mobility violated California Labor Code §§226.7(b) and 512.

90. PAGA, specifically California Labor Code §2699(a), allows Plaintiff to recover civil penalties for the violation of provisions of the California Labor Code that contain their own civil penalties. California Labor Code §§558 and 2699 contain the civil penalties collectable under the PAGA for violation of California Labor Code §§226.7(b) and 512. Accordingly, Plaintiff seeks the civil penalties permitted through California Labor Code §§558 and 2699 for AT&T Mobility's violations of California Labor Code §§226.7(b) and 512.

91. Plaintiff requests penalties against AT&T Mobility for its violations of California Labor Code §§226.7(b) and 512, as provided under PAGA, plus reasonable attorneys' fees and costs, in amounts to be proven at trial.

#### **TWELFTH CAUSE OF ACTION**

#### **For Violations of California Labor Code §§201, 202, and 203 Brought Under PAGA Against AT&T Mobility by Plaintiff on a Private Attorneys General Basis (PAGA §§201-203 Claim)**

92. Plaintiff repeats and incorporates herein by reference each and every allegation contained above, as though fully set forth herein.

93. During the year immediately preceding the date of Plaintiff's PAGA exhaustion letter, AT&T Mobility failed to pay Plaintiff and other California current and former employees whose employment had separated all wages due and owing by the times set forth in California Labor Code §§201-202, as applicable. AT&T Mobility further failed to pay the waiting time penalties as set forth in California Labor Code §203 to Plaintiff and other California current and former employees whose employment had separated.

1           94.       PAGA, specifically California Labor Code §2699(a), allows Plaintiff to recover  
 2 civil penalties for the violation of provisions of the California Labor Code that contain their own  
 3 civil penalties. California Labor Code §§256 and 2699 contain the civil penalties collectable  
 4 under the PAGA for violation of California Labor Code §203. California Labor Code  
 5 §2699(f)(2) provides that "[i]f, at the time of the alleged violation, the person employs one or  
 6 more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per  
 7 pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee  
 8 per pay period for each subsequent violation." California Labor Code §§201-202 do not provide  
 9 their own civil penalties. Because AT&T Mobility is an employer that currently employs one or  
 10 more employees, the civil penalties set forth in California Labor Code §2699(f)(2) apply to each  
 11 of AT&T Mobility's violations of California Labor Code §§201-202. Accordingly, Plaintiff  
 12 seeks the civil penalties permitted through California Labor Code §§256 and 2699 for AT&T  
 13 Mobility's violation of California Labor Code §§201-203.

14           95.       Plaintiff requests penalties against AT&T Mobility for its violation of California  
 15 Labor Code §§201-202 as provided under PAGA, plus reasonable attorneys' fees and costs, in  
 16 amounts to be proven at trial.

### 17                               **THIRTEENTH CAUSE OF ACTION**

#### 18                               **For Violation of California Labor Code §226(a) Brought Under PAGA** 19                               **Against AT&T Mobility by Plaintiff on a Private Attorneys General Basis** 20                               **(PAGA Pay Stub Claim)**

21           96.       Plaintiff repeats and incorporates herein by reference each and every allegation  
 22 contained above, as though fully set forth herein.

23           97.       California Labor Code §226(a) sets forth the following reporting requirements for  
 24 employers when they pay wages:

25           Every employer shall ... at the time of each payment of wages, furnish each of  
 26 his or her employees ... an accurate itemized statement in writing showing (1)  
 27 gross wages earned, (2) total hours worked by the employee, except for any  
 28 employee whose compensation is solely based on a salary and who is exempt  
 from payment of overtime under subdivision (a) of Section 515 or any applicable  
 order of the Industrial Welfare Commission, (3) the number of piece-rate units

1 earned and any applicable piece rate if the employee is paid on a piece-rate basis,  
 2 (4) all deductions, provided that all deductions made on written orders of the  
 3 employee may be aggregated and shown as one item, (5) net wages earned, (6)  
 4 the inclusive dates of the period for which the employee is paid, (7) the name of  
 5 the employee and only the last four digits of his or her social security number or  
 6 an employee identification number other than a social security number statement,  
 7 (8) the name and address of the legal entity that is the employer..., and (9) all  
 8 applicable hourly rates in effect during the pay period and the corresponding  
 number of hours worked at each hourly rate by the employee.... The deductions  
 made from payments of wages shall be recorded in ink or other indelible form,  
 properly dated, showing the month, day, and year, and a copy of the statement  
 and the record of the deductions shall be kept on file by the employer for at least  
 three years at the place of employment or at a central location within the State of  
 California.

9 98. During the year immediately preceding the date of Plaintiff's PAGA exhaustion  
 10 letter, AT&T Mobility furnished Plaintiff and other California current and former employees,  
 11 regardless of position, and continues to furnish many of its other California employees with  
 12 wage statements that violate the requirements of California Labor Code §226(a) through its  
 13 omission of certain required information and/or inaccurate reporting of required information.

14 99. PAGA, specifically California Labor Code §2699(a), allows Plaintiff to recover  
 15 civil penalties for the violation of provisions of the California Labor Code that contain their own  
 16 civil penalties. California Labor Code §2699 contains the civil penalties for violation of  
 17 California Labor Code §226(a). Accordingly, Plaintiff seeks the civil penalties set forth in  
 18 California Labor Code §2699 for AT&T Mobility's violation of California Labor Code §226(a).

19 100. Plaintiff requests penalties against AT&T Mobility for its violation of California  
 20 Labor Code §226(a) as provided under PAGA, plus reasonable attorneys' fees and costs, in  
 21 amounts to be proven at trial.

#### 22 **FOURTEENTH CAUSE OF ACTION**

#### 23 **For Violation of California Labor Code §204 Brought Under PAGA** 24 **Against AT&T Mobility by Plaintiff on a Private Attorneys General Basis** 25 **(PAGA §204 Claim)**

26 101. Plaintiff repeats and incorporates herein by reference each and every allegation  
 27 contained above, as though fully set forth herein.

102. During the year immediately preceding the date of Plaintiff's PAGA exhaustion letter, AT&T Mobility failed to timely pay all wages timely in accordance with California Labor Code §204 to Plaintiff and other of AT&T Mobility's California current and former employees.

103. PAGA, specifically California Labor Code §2699(a), allows Plaintiff to recover civil penalties for the violation of provisions of the California Labor Code that contain their own civil penalties. California Labor Code §§210 and 2699 contain the civil penalties for violation of California Labor Code §204. Accordingly, Plaintiff seeks the civil penalties set forth in California Labor Code §§210 and 2699 for AT&T Mobility's violation of California Labor Code §204.

104. Plaintiff requests penalties against AT&T Mobility for its violation of California Labor Code §204 as provided under PAGA, plus reasonable attorneys' fees and costs, in amounts to be proven at trial.

#### **FIFTEENTH CAUSE OF ACTION**

#### **For Violation of California Labor Code §1198 Brought Under PAGA Against AT&T Mobility by Plaintiff on a Private Attorneys General Basis (PAGA §1198 Claim)**

105. Plaintiff repeats and incorporates herein by reference each and every allegation contained above, as though fully set forth herein.

106. California Labor Code §1198 provides that "[t]he employment of any employee ... under conditions of labor prohibited by the [wage] order is unlawful."

107. During the year immediately preceding the date of Plaintiff's PAGA exhaustion letter, AT&T Mobility violated California Labor Code §1198 by failing to pay proper minimum wages to Plaintiff and other of AT&T Mobility's current and former employees, in violation of the "Minimum Wages" section of the applicable California IWC Wage Order.

108. During the year immediately preceding the date of Plaintiff's PAGA exhaustion letter, AT&T Mobility violated California Labor Code §1198 by failing to pay proper overtime wages to Plaintiff and other of AT&T Mobility's current and former employees, in violation of the "Hours and Days of Work" section of the applicable California IWC Wage Order.

1           109.     During the year immediately preceding the date of Plaintiff's PAGA exhaustion  
2 letter, AT&T Mobility violated California Labor Code §1198 by failing to authorize and permit  
3 compliant paid rest periods to Plaintiff and other of AT&T Mobility's current and former  
4 employees, in violation of the "Rest Periods" section of the applicable California IWC Wage  
5 Order.

6           110.     During the year immediately preceding the date of Plaintiff's PAGA exhaustion  
7 letter, AT&T Mobility violated California Labor Code §1198 by failing to provide compliant  
8 meal periods to Plaintiff and other of AT&T Mobility's current and former employees, in  
9 violation of the "Meal Periods" section of the applicable California IWC Wage Order.

10          111.     During the year immediately preceding the date of Plaintiff's PAGA exhaustion  
11 letter, AT&T Mobility violated California Labor Code §1198 by failing to provide and maintain  
12 compliant wage statements and records for Plaintiff and other of AT&T Mobility's current and  
13 former employees, regardless of job position, in violation of the "Records" section of the  
14 applicable California IWC Wage Order.

15          112.     PAGA, specifically California Labor Code §2699(f), establishes a civil penalty  
16 to be levied against California employers for violations of California Labor Code provisions that  
17 do not contain their own civil penalties. California Labor Code §2699(f)(2) provides that "[i]f, at  
18 the time of the alleged violation, the person employs one or more employees, the civil penalty is  
19 one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation  
20 and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent  
21 violation." California Labor Code §1198 does not provide its own civil penalties. Because  
22 AT&T Mobility is an employer that currently employs one or more employees, the civil  
23 penalties set forth in California Labor Code §2699(f)(2) apply to each of AT&T Mobility's  
24 violations of California Labor Code §1198.

25          113.     Plaintiff requests penalties against AT&T Mobility for its violation of California  
26 Labor Code §1198 as provided under PAGA, plus reasonable attorneys' fees and costs, in  
27 amounts to be proved at trial.

28

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff requests entry of judgment, on behalf of herself and the other  
3 California employees, against each defendant, jointly and severally, as follows:

4 **Class Certification**

- 5 1. That this action be certified as a class action;
- 6 2. That Plaintiff be appointed as the representative of the Pay Stub Class, the RSC  
7 Class, and the RSC Waiting Time Sub Class; and
- 8 3. That counsel for Plaintiff be appointed as counsel for the Pay Stub Class, the RSC  
9 Class, and the RSC Waiting Time Sub Class.

10 **On the First and Second Causes of Action**

- 11 1. For repayment of wages and liquidated damages, under the First and Second  
12 Causes of Action, to Plaintiff and members of the RSC Class under California Labor Code  
13 §§1194 and 1194.2 according to proof and to the extent permissible;
- 14 2. For payment of penalties to Plaintiff and members of the RSC Waiting Time Sub  
15 Class under California Labor Code §203 according to proof and to the extent permissible;
- 16 3. For pre-judgment interest on any unpaid wages due from the day that such  
17 amounts were due under California Labor Code §1194;
- 18 4. For reasonable attorneys' fees that Plaintiff and members of the RSC Class are  
19 entitled to recover under California Labor Code §1194;
- 20 5. For costs of suit incurred herein that Plaintiff and members of the RSC Class are  
21 entitled to recover under California Labor Code §1194; and
- 22 6. For such other and further relief as the Court deems proper.

23 **On the Third and Fourth Causes of Action**

- 24 1. For statutory premium wages to Plaintiff and members of the RSC Class under  
25 California Labor Code §226.7(c) according to proof;
- 26 2. For reasonable attorneys' fees and costs of suit pursuant to California Code of  
27 Civil Procedure §1021.5;
- 28

1           3.     For pre-judgment interest on any unpaid wages due from the day that such  
2 amounts were due; and

3           4.     For such other and further relief as the Court deems proper.

4                               On the Fifth Cause of Action

5           1.     For penalties according to proof under California Labor Code §203 to Plaintiff  
6 and members of the RSC Waiting Time Sub Class;

7           2.     For reasonable attorneys' fees;

8           3.     For costs of suit incurred herein; and

9           4.     For such other and further relief as the Court deems proper.

10                           On the Sixth Cause of Action

11          1.     For penalties and damages according to proof under California Labor Code  
12 §226(e) to Plaintiff and Pay Stub Class members;

13          2.     For injunctive relief under California Labor Code §226(h);

14          3.     For reasonable attorneys' fees;

15          4.     For costs of suit incurred herein; and

16          5.     For such other and further relief as the Court deems proper.

17                           On the Seventh Cause of Action

18          1.     That Defendants, jointly and/or severally, pay restitution and/or disgorgement of  
19 sums to Plaintiff and members of the RSC Class for their failures to pay all minimum wages over  
20 the last four years in an amount according to proof;

21          2.     That Defendants, jointly and/or severally, pay restitution and/or disgorgement of  
22 sums to Plaintiff and members of the RSC Class for their failures to pay all overtime wages over  
23 the last four years in an amount according to proof;

24          3.     That Defendants, jointly and/or severally, pay restitution and/or disgorgement of  
25 sums to Plaintiff and members of the RSC Class for their failures to pay all wages due and owing  
26 over the last four years as in an amount according to proof;

27          4.     That Defendants, jointly and/or severally, pay restitution and/or disgorgement of  
28 sums to Plaintiff and members of the RSC Class for their failures to pay correct premium wages

1 for rest periods that were not authorized and permitted over the last four years in an amount  
2 according to proof;

3 5. That Defendants, jointly and/or severally, pay restitution and/or disgorgement of  
4 sums to Plaintiff and members of the RSC Class for their failures to pay correct premium wages  
5 for meal periods that were not provided over the last four years in an amount according to proof;

6 6. For pre-judgment interest on any unpaid wages due from the day that such  
7 amounts were due;

8 7. For reasonable attorneys' fees that Plaintiff and members of the RSC Class are  
9 entitled to recover under California Labor Code §§218.5 and 1194, and California Code of Civil  
10 Procedure §1021.5;

11 8. For costs of suit incurred herein that Plaintiff and members of the RSC Class are  
12 entitled to recover under California Labor Code §§218.5 and 1194; and

13 9. For such other and further relief as the Court deems proper.

14 On the Eighth Through Fifteenth Causes of Action

15 1. For penalties according to proof;

16 2. For reasonable attorneys' fees and costs; and

17 3. For such other and further relief as the Court deems proper.

18 **DEMAND FOR JURY TRIAL**

19 Plaintiff requests a jury trial in this matter.

20 Dated: June 4, 2014

ROBBINS ARROYO LLP  
THE DENTE LAW FIRM

22 By: /s/Diane E. Richard

DIANE E. RICHARD  
Attorneys for Plaintiff Tran K. Ly

26 959851

# **Exhibit A**



600 B Street, Suite 1900  
San Diego, CA 92101  
619.525.3990 phone  
619.525.3991 fax  
www.robbsinarroyo.com

April 30, 2014

**VIA U.S. CERTIFIED MAIL RETURN RECEIPT REQUESTED**

CALIFORNIA LABOR AND WORKFORCE  
DEVELOPMENT AGENCY  
Attn. PAGA Administrator  
455 Golden Gate Avenue, 9th Floor  
San Francisco, CA 94102

AT&T MOBILITY SERVICES LLC  
c/o C T Corporation System, Agent for Service  
of Process  
675 W. Peachtree Street NW, Suite 2756  
Atlanta, GA 30308

AT&T MOBILITY LLC  
c/o C T Corporation System, Agent for Service  
of Process  
675 W. Peachtree Street, Suite 42-090  
Atlanta, GA 30375-0001

**Re: Notice of Claims/Labor Code Private Attorneys General Act of 2004,  
California Labor Code §2698, et seq.**

**To:** California Labor and Workforce Development Agency, AT&T Mobility Services LLC, and  
AT&T Mobility LLC

The Dente Law Firm and Robbins Arroyo LLP represent Tran K. Ly, a former employee at AT&T Mobility Services LLC, and AT&T Mobility LLC (collectively "AT&T Mobility") in San Diego, California. This letter is intended to constitute notice of claims, including notice pursuant to the California Labor Code Private Attorneys General Act of 2004, California Labor Code §2698, *et seq.* ("PAGA") that Ms. Ly intends to bring a civil action for penalties under PAGA for California Labor Code violations committed by AT&T Mobility against Ms. Ly and other current and/or former AT&T Mobility employees in California. Ms. Ly's PAGA action involves AT&T Mobility's violations of sections 201, 202, 203, 204, 226(a), 226.7, 510, 512, 1197, and 1198 of the California Labor Code.

**AT&T Mobility's Violation of Sections 226(a) and 1198<sup>1</sup>:** Section 226(a) states in pertinent part that: "Every employer shall ... at the time of each payment of wages, furnish each of his or her employees ... an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee ..., (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions ..., (5) net

---

<sup>1</sup> "Section \_\_\_\_" or "Sections \_\_\_\_" refers to the California Labor Code, unless otherwise noted.

Notice of Claims  
 April 30, 2014  
 Page 2

wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number ..., (8) the name and address of the ... employer ..., and (9) all applicable hourly rates in effect during the pay period ...." Additionally, the "Records" section of the applicable California Industrial Welfare Commission ("IWC") Wage Order ("Wage Order") requires accurate recordkeeping including records relating to time and pay.

During at least the year immediately preceding the date of this letter, Ms. Ly and other AT&T Mobility employees were issued itemized wage statements that did not comply with the requirements under either Section 226(a), or under the requirements of the "Records" section of the applicable IWC Wage Order, a violation of Section 1198. The wage statements provided to Ms. Ly and other employees of AT&T Mobility on their face fail to, among other things, correctly state the work dates for which payments are being paid including overtime wages, commissions, and adjustments, and accurately itemize the total hours worked and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate in effect each pay period. For example, the wage statements on their face fail to identify a rate of pay, hours worked, and time periods for "true up payments" and "additional adjustments;" fail to have corresponding time periods listed for each time period that non-base payments are being made such as overtime and commissions; fail to accurately itemize the total hours worked; and fail to accurately state the rate of pay for meal and rest premiums in that the premium payments are not based on the employees' true regular rate of pay but rather only their base pay. Furthermore, the wage statements omit required information about the employer legal entities in that the wage statements identify AT&T Mobility Services LLC as the employer but fail to identify AT&T Mobility LLC as an employer. AT&T Mobility LLC is identified in a Labor Agreement between AT&T Mobility LLC and the Communication Workers of America as an employer of persons covered by that agreement. Additionally, the wage statements fail to accurately itemize hours worked and gross and net wages earned in that for AT&T Mobility employees who work as a non-exempt Retail Sales Consultant or equivalent position, the wage statements omit some hours worked and wages earned as a result of these employees not being paid for all time spent working while waiting for procedures to be completed for electronic devices and closing.

#### **AT&T Mobility's Violation of Section 204:**

During at least the year immediately preceding the date of this letter, AT&T Mobility failed to timely pay Ms. Ly and other California non-exempt AT&T Mobility employees all wages due during employment in accordance with Section 204's timing requirements through its unlawful practices of, including, but not limited to: (i) failing to timely pay for all time worked arising from time spent waiting for issuance and return of electronic devices (e.g., iPads) for work (for AT&T Mobility employees who work as a non-exempt Retail Sales Consultant or equivalent position); (ii) failing to timely pay for all time worked on closing shifts arising from time spent waiting to be released from work at the end of closing shifts as a result of procedures such as lock-up, closing up, and alarming procedures (for AT&T Mobility employees who work as a non-exempt Retail Sales Consultant or equivalent position); and (iii) failing to timely pay

Notice of Claims  
 April 30, 2014  
 Page 3

meal and rest premium wages at the true regular rate of pay which includes commissions, incentive pay, and other forms of compensation that is factored into the calculation of employees' regular rate of pay. Additionally, during at least the year immediately preceding the date of this letter, AT&T Mobility failed to comply with Section 204(b)(2)'s requirements concerning setting forth corrections on paystubs when it issues wage statements to Ms. Ly and other California non-exempt of AT&T Mobility.

**AT&T Mobility's Violation of Sections 1197 and 1198:**

Section 1197 provides that the payment of less than minimum wage is unlawful. Section 1198 provides that the standard conditions of labor fixed by the commission shall be the standard conditions of labor for employees. The "Minimum Wages" section of the applicable IWC Wage Order provides that every employer must pay to each employee on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the pay period whether the remuneration is measured by time, piece, commission, or otherwise. During at least the year immediately preceding the date of this letter, AT&T Mobility, among other things, with respect to AT&T Mobility employees who work as a non-exempt Retail Sales Consultant or equivalent position: (i) failed to pay for all time worked arising from time spent waiting for issuance and return of electronic devices (e.g. iPads) for work; and (ii) failed to pay for all time worked on closing shifts arising from time spent waiting to be released from work at the end of closing shifts as a result of procedures such as lock-up, closing up, and alarming procedures.

**AT&T Mobility's Violation of Sections 510 and 1198:**

AT&T Mobility is required to pay Ms. Ly and other California non-exempt AT&T Mobility employees overtime compensation in accordance with Section 510. Section 1198 provides that the standard conditions of labor fixed by the commission shall be the standard conditions of labor for employees. The "Hours and Days of Work" section of the applicable IWC Wage Order provides that an employer must pay non-exempt employees daily and weekly overtime. During at least the year immediately preceding the date of this letter, AT&T Mobility, among other things, with respect to AT&T Mobility employees who work as a non-exempt Retail Sales Consultant or equivalent position: (i) failed to pay for all time worked arising from time spent waiting for issuance and return of electronic devices (e.g., iPads) for work; and (ii) failed to pay for all time worked on closing shifts arising from time spent waiting to be released from work at the end of closing shifts as a result of procedures such as lock-up, closing up, and alarming procedures.

**AT&T Mobility's Violation of Sections 226.7 and 1198:**

Section 226.7(b) makes it unlawful for an employer to require any employee to work during any rest period mandated by the applicable IWC Wage Order, statute, regulation, standard, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health. Pursuant to "Rest Periods" section of the applicable IWC Wage Order, ~~"Every employer shall authorize and permit all employees to take rest periods, which insofar as~~

Notice of Claims  
April 30, 2014  
Page 4

practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 ½) hours. Authorized rest period time shall be counted, as hours worked, for which there shall be no deduction from wages." Section 1198 moreover makes it unlawful for an employer to violate the Rest Periods section of the applicable IWC Wage Order.

Section 226.7(c) provides that an employer shall pay an employee one additional hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided.

During at least the year immediately preceding the date of this letter, AT&T Mobility has failed to pay Ms. Ly and other AT&T Mobility employees who work as a non-exempt Retail Sales Consultant or equivalent position the appropriate payment under Section 226.7 because, if and when paid, AT&T Mobility paid the additional hour not at the employee's true regular rate of compensation but rather used the employee's base rate compensation not taking into account other compensation that forms the regular rate of compensation such as commissions and incentive pay. Furthermore, AT&T Mobility has further failed, as evidenced through any payment of any rest premium wages, to authorize and permit rest periods. As a result, AT&T Mobility has violated Sections 226.7 and 1198.

**AT&T Mobility's Violation of Sections 226.7, 512, and 1198:**

Section 512 and the "Meal Periods" section of the applicable IWC Wage Order provide that no employer shall employ an employee for a work period of more than five (5) hours without providing a meal break of not less than thirty (30) minutes in which the employee is relieved of all of his or her duties. Further, under Section 512 and the applicable IWC Wage Order, an employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than thirty (30) minutes, except that if the total hours worked is no more than twelve hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived. The "Records" section of the applicable IWC Wage Order requires an employer to keep accurate information with respect to each employee including time records showing when the employee begins and ends each work period and meal periods. Section 1198 makes it unlawful to employ persons under conditions prohibited by the applicable IWC Wage Order. Furthermore, Section 226.7(b) makes it unlawful for an employer to require any employee to work during any meal period mandated by the applicable IWC Wage Order.

Section 226.7(c) provides that an employer shall pay an employee one additional hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided.

During at least the year immediately preceding the date of this letter, AT&T Mobility has failed to pay Ms. Ly and other AT&T Mobility employees who work as a non-exempt Retail

Notice of Claims  
April 30, 2014  
Page 5

Sales Consultant or equivalent position the appropriate payment under Section 226.7 because, if and when paid, AT&T Mobility paid the additional hour not at the employee's true regular rate of compensation but rather used the employee's base rate compensation not taking into account other compensation that forms the regular rate of compensation such as commissions and incentive pay. Furthermore, AT&T Mobility has further failed to provide meal periods, as evidenced through the payment of any meal premium wages. As a result, AT&T Mobility has violated Sections 226.7, 512 and 1198.

**AT&T Mobility's Violations/Penalties Regarding Sections 201, 202, and 203:**

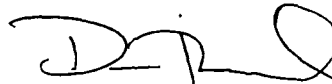
Sections 201 and 202 set forth the timing requirements for the payment of wages due upon an employee's separation of employment. Section 203 furthermore provides that a waiting time penalty must be paid should the timing requirements in Sections 201 or 202 not be complied with. AT&T Mobility did not pay Ms. Ly and other AT&T Mobility employees who work as a non-exempt Retail Sales Consultant or equivalent position all wages due by the times set forth in Sections 201 and 202 as applicable, including, but not limited to, regular, minimum, overtime, premium wages, and other forms of wages. Ms. Ly seeks civil penalties for these violations.

**Applicable PAGA Civil Penalty:**

PAGA, specifically Section 2699(a), permits an aggrieved employee to recover civil penalties set forth within the California Labor Code for violations of the California Labor Code. In addition, Section 2699(f) establishes civil penalties for violations of California Labor Code provisions that do not contain their own civil penalties. Ms. Ly intends to bring a civil action to recover civil penalties for the violations identified above, including civil penalties pursuant to Section 2699(f) as well as those civil penalties specifically set forth within the text of the California Labor Code. These penalties are sought for violations committed against Ms. Ly and other California AT&T Mobility employees as described herein.

Please feel free to contact the undersigned with any questions you may have.

Very truly yours,



Diane E. Richard

cc: Matthew S. Dente, Esq. (via e-mail)

**ELECTRONICALLY FILED**

Superior Court of California,  
County of San Diego

**04/30/2014** at 02:43:28 PM

Clerk of the Superior Court  
By Bernice Orihuela, Deputy Clerk

1 ROBBINS ARROYO LLP  
BRIAN J. ROBBINS (SB# 190264)  
2 DIANE E. RICHARD (SB# 204897)  
600 B Street, Suite 1900  
3 San Diego, CA 92101  
Telephone: (619) 525-3990  
4 Facsimile: (619) 525-3991  
brobbins@robbinsarroyo.com  
5 drichard@robbinsarroyo.com

6 THE DENTE LAW FIRM  
MATTHEW S. DENTE (SB# 241547)  
7 600 B Street, Suite 1900  
San Diego, CA 92101  
8 Telephone: (619) 550-3475  
Facsimile: (619) 342-9668  
9 matt@dentelaw.com

10 Attorneys for Plaintiff Tran K. Ly

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 COUNTY OF SAN DIEGO

13 TRAN K. LY, Individually and on Behalf of  
Other Members of the Public Similarly  
14 Situated,

15 Plaintiff,

16 v.

17 AT&T MOBILITY SERVICES LLC,  
AT&T MOBILITY LLC, and  
18 DOES 1-10, Inclusive,

19 Defendants.

Case No. 37-2014-00013654-CU-OE-CTL

**CLASS ACTION COMPLAINT FOR:**

- (1) **FAILURE TO PAY MINIMUM WAGES;**
- (2) **FAILURE TO PAY OVERTIME WAGES;**
- (3) **FAILURE TO AUTHORIZE AND PERMIT PAID REST PERIODS;**
- (4) **FAILURE TO PROVIDE MEAL PERIODS;**
- (5) **FAILURE TO PAY WAGES TIMELY UPON SEPARATION OF EMPLOYMENT;**
- (6) **FAILURE TO PROVIDE AND MAINTAIN COMPLIANT ITEMIZED WAGE STATEMENTS;**
- (7) **UNFAIR COMPETITION**

**DAMAGES EXCEED \$25,000**

**DEMAND FOR JURY TRIAL**

1 COMES NOW Plaintiff Tran K. Ly ("Plaintiff"), on behalf of herself and as a  
2 representative of employees of AT&T Mobility Services LLC and AT&T Mobility LLC  
3 (collectively, "AT&T Mobility") and Does 1-10, inclusive, (collectively, with AT&T Mobility,  
4 "Defendants") and asserts the following claims:

5 1. This is a class action brought for violations of the California Labor Code  
6 pertaining to the issuance and maintenance of noncompliant itemized wage statements, failure to  
7 pay proper meal and rest premiums at the true regular rate of pay, failure to pay all required  
8 wages for all time worked arising for the time periods employees spend waiting for the issuance  
9 and return of electronic devices (e.g., iPads) and for the time periods employees spend waiting to  
10 be released from work at the end of closing shifts, and for failure to pay all wages due and owing  
11 upon separation of employment.

12 2. On April 30, 2014, Plaintiff filed an exhaustion letter with the California Labor  
13 and Workforce Development Agency providing notice of her intent to bring a private attorneys  
14 general action for recovery of penalties under the California Labor Code Private Attorneys  
15 General Act of 2004, California Labor Code §2698, *et seq.* ("PAGA"). *See Arias v. Superior*  
16 *Court*, 46 Cal. 4th 969 (2009). PAGA permits an "aggrieved employee" to bring a lawsuit for  
17 civil penalties arising from violations of California's Labor Code committed against himself or  
18 herself and other current and former employees. Upon the conclusion of the PAGA exhaustion  
19 period, Plaintiff will amend her Complaint, as permitted by law, to seek penalties for the Labor  
20 Code violations committed against her and Defendants' other current and former California  
21 employees as a private attorney general.

22 3. Plaintiff is, and at all times mentioned in this Complaint was, a resident of San  
23 Diego, California.

24 4. Upon information and belief, defendant AT&T Mobility Services LLC is a  
25 Delaware corporation with principal executive offices in Georgia. AT&T Mobility Services  
26 LLC is currently registered to do business in the state of California and does business in San  
27 Diego, California.

1           5.       Upon information and belief, defendant AT&T Mobility LLC is a Delaware  
2 corporation with principal executive offices in Georgia. AT&T Mobility, LLC is currently  
3 registered to do business in the state of California and does business in San Diego, California.

4           6.       Upon information and belief, defendants AT&T Mobility are employers whose  
5 employees are engaged throughout San Diego County and the state of California.

6           7.       Whenever in this Complaint reference is made to any act, deed, or conduct of  
7 AT&T Mobility, the allegation means that AT&T Mobility engaged in the act, deed, or conduct  
8 by or through one or more of its officers, directors, agents, employees, or representatives, who  
9 was actively engaged in the management, direction, control, or transaction of the ordinary  
10 business and affairs of AT&T Mobility.

11          8.       Plaintiff is ignorant of the true names and capacities, whether individual,  
12 corporate, associate, or otherwise, of the defendants sued herein as Does 1-10, inclusive and  
13 therefore sues said defendants by such fictitious names ("Doe Defendants"). Plaintiff will amend  
14 this Complaint to insert the true names and capacities of the Doe Defendants at such time as the  
15 identities of the Doe Defendants are ascertained.

16          9.       Plaintiff is informed and believes, and thereon alleges, that the Doe Defendants  
17 are the partners, agents, or principals and/or co-conspirators of AT&T Mobility, and of each  
18 other; that AT&T Mobility and the Doe Defendants performed the acts and conduct herein  
19 alleged directly, aided and abetted the performance thereof, or knowingly acquiesced in, ratified,  
20 and accepted the benefits of such acts and conduct, and therefore each of the Doe Defendants is  
21 liable to the extent of the liability of AT&T Mobility as alleged herein.

22          10.       Plaintiff is further informed and believes, and thereon alleges, that at all times  
23 herein material, each defendant was completely dominated and controlled by its co-defendants  
24 and each was the alter ego of the other. Whenever and wherever reference is made in this  
25 Complaint to any conduct by AT&T Mobility or Defendants, such allegations and references  
26 shall also be deemed to mean the conduct of each of the Defendants, acting individually, jointly,  
27 and severally. Whenever and wherever reference is made to individuals who are not named as  
28 defendants in this Complaint, but were employees and/or agents of Defendants, such individuals

1 at all relevant times acted on behalf of Defendants named in this Complaint within the scope of  
2 their respective employments.

### 3 CLASS ACTION ALLEGATIONS

4 11. Plaintiff brings her claim for relief in this action on behalf of herself as well as on  
5 behalf of each and all other persons similarly situated, and thus, seeks class certification under  
6 California Code of Civil Procedure §382.

7 12. All claims alleged herein arise under California law for which Plaintiff seeks  
8 relief as authorized by California law.

9 13. With respect to Plaintiff's First through Seventh Causes of Action, the proposed  
10 Classes and Sub Class are comprised of and defined as:

11 Any and all persons who are or were employees of AT&T Mobility LLC and/or  
12 AT&T Mobility Services LLC in the state of California within one year prior to  
13 the filing of the Complaint in this action until resolution of this lawsuit and who  
received a paystub (hereinafter collectively referred to as the "Pay Stub Class").

14 Any and all persons who are or were non-exempt Retail Sales Consultant  
15 employees, or equivalent positions however titled, of AT&T Mobility LLC  
16 and/or AT&T Mobility Services LLC in the state of California within four years  
prior to the filing of the Complaint in this action until resolution of this lawsuit  
(hereinafter collectively referred to as the "RSC Class").

17 Any and all persons in the RSC Class whose employment was separated at any  
18 time within three years prior to the filing of the Complaint in this action until  
19 resolution of this lawsuit (hereinafter collectively referred to as the "RSC  
Waiting Time Sub Class").

20 14. The members of the Pay Stub Class, the RSC Class, and the RSC Waiting Time  
21 Sub Class (collectively, the "Classes" or "Class Members") are so numerous as to make it  
22 impracticable to bring them all before this Court. Plaintiff is unable to state the exact number of  
23 the Class Members without discovery of Defendants' books and records, but avers upon  
24 information and belief that each of the Classes exceed fifty members. The identity of Class  
25 Members is readily ascertainable by an inspection of Defendants' employment and payroll  
26 records.

1           15.     There are questions of law and fact common to the members of each of the  
2     Classes that predominate over any questions affecting any individual in the Classes. Defendants  
3     have acted, and refused to act, on grounds generally applicable to members of the Classes.

4           16.     Plaintiff's claims are typical of the claims of the Class Members and Plaintiff will  
5     fairly and adequately protect the interests of these members.

6           17.     The prosecution of separate actions by individual members of the Classes would  
7     create the risk of:

8                   (a)     Inconsistent or varying adjudications in different jurisdictions with respect  
9     to individual Class Members, which would establish incompatible standards of conduct for  
10    Defendants; and

11                  (b)     Adjudications with respect to individual Class Members which, as a  
12    practical matter, would be dispositive of the interests and rights of Class Members who are not  
13    parties to the adjudications, or would substantially impair or impede the ability of Class  
14    Members to protect their interests.

15           18.     At all times relevant to this action, Defendants have enacted and effected  
16    unlawful and unfair state-wide employment policies and practices which have caused Plaintiff  
17    and members of the Classes to suffer injury. A class action is superior to other available  
18    methods for the fair and efficient adjudication of Defendants' policies and practices and the  
19    damage they caused Plaintiff and members of the Classes to suffer and which are the subject  
20    matter of this action.

21           19.     Employers in the state of California violate employment and labor laws every  
22    day. Current employees are often afraid to assert their rights out of fear of direct or indirect  
23    retaliation. Former employees are fearful of bringing actions because they believe their former  
24    employers may damage their future endeavors through negative references and/or other means.  
25    The nature of this action allows for the protection of current and former employees' rights  
26    without fear for retaliation or damage.

20. The claims asserted herein implicate questions of law or fact common to members of the Classes. These common questions predominate over any questions affecting only individual Class Members. Common questions include, but are not limited to:

(a) Whether Defendants failed to maintain and provide Pay Stub Class members with wage statements that complied with the requirements of the California Labor Code §226(a);

(b) Whether Defendants failed to provide members of the RSC Class with proper meal premium pay at the true regular rate of pay as required by California Labor Code §§226.7(c) and 1198 and the applicable California Industrial Welfare Commission ("IWC") Wage Order;

(c) Whether Defendants failed to provide members of the RSC Class with proper rest premium pay at the true regular rate of pay as required by California Labor Code §§226.7(c) and 1198 and the applicable California IWC Wage Order;

(d) Whether Defendants failed to provide members of the RSC Class with all required overtime in violation of California Labor Code §§510 and 1198;

(e) Whether Defendants failed to provide members of the RSC Class with all required minimum wages in violation of California Labor Code §§1197 and 1198 and the applicable California IWC Wage Order;

(f) Whether Defendants unlawfully failed to pay all wages due and owing to RSC Class members, and on a timely manner timely wages to members of the RSC Waiting Time Sub Class in violation of California Labor Code §§201, 202, and 203;

(g) Whether Defendants engaged in unfair competition in violation of California Business and Professions Code §§17200, *et seq.*; and

(h) The appropriate amount of penalties, damages, and restitution resulting from Defendants' violations of California law.

#### **FACTUAL ALLEGATIONS**

21. At all times set forth herein, Defendants employed, and continue to employ, employees throughout the state of California. Upon information and belief, defendant AT&T

1 Mobility Services LLC is a Delaware corporation with principal executive offices in Georgia.  
2 AT&T Mobility Services LLC is currently registered to do business in the state of California and  
3 does business in San Diego, California.

4 22. Upon information and belief, defendant, AT&T Mobility LLC is Delaware  
5 corporation with principal executive offices in Georgia. AT&T Mobility LLC is currently  
6 registered to do business in the state of California and does business in San Diego, California.

7 23. Upon information and belief, defendants AT&T Mobility provide wireless  
8 services and products and employ persons throughout San Diego County and the state of  
9 California.

10 24. Plaintiff is a former employee of Defendants and worked in San Diego County,  
11 California, until approximately April 21, 2014. At times relevant, she held a non-exempt  
12 employee position of Retail Sales Consultant. Plaintiff worked for Defendants at times during  
13 the relevant period specified herein.

14 25. Plaintiff and other members of the Pay Stub Class, the RSC Class, and the RSC  
15 Waiting Time Sub Class have been at times pertinent hereto, employees of Defendants within the  
16 meaning of the California Labor Code and the implementing rules and regulations of the  
17 California IWC Wage Orders. Plaintiff and other members of the RSC Class and the RSC  
18 Waiting Time Sub Class have been at times pertinent hereto, non-exempt employees of  
19 Defendants within the meaning of the California Labor Code and the implementing rules and  
20 regulations of the California IWC Wage Orders.

21 26. During the relevant time frame, Defendants knowingly and intentionally failed,  
22 and continue to fail, to provide Plaintiff and other members of Pay Stub Class with wage  
23 statements that contained the information required by California Labor Code §226(a). The wage  
24 statements Defendants have provided to Plaintiff and other employees in Pay Stub Class fail to,  
25 among other things, on their face correctly state the work dates for which payments are being  
26 paid including overtime wages, commissions, and adjustments, and accurately itemize the total  
27 hours worked and all applicable hourly rates in effect during the pay period and the  
28 corresponding number of hours worked at each hourly rate in effect each pay period. For

1 example, the wage statements, on their face, fail to identify a rate of pay, hours worked, and time  
2 periods for "true up payments" and "additional adjustments;" fail to have corresponding time  
3 periods listed for each time period that non-base payments are being made such as overtime and  
4 commissions; fail to accurately itemize the total hours worked; and fail to accurately state the  
5 rate of pay for meal and rest premiums in that the premium payments are not based on the  
6 employees' true regular rate of pay but rather only their base pay. Additionally, the wage  
7 statements fail to accurately itemize hours worked and gross and net wages earned in that for  
8 RSC Class members, the wage statements omit some hours worked and wages earned as a result  
9 of these employees not being paid for all time spent working while waiting for procedures to be  
10 completed for electronic devices and closing. Furthermore, the wage statements omit required  
11 information about the employer legal entities in that the wage statements identify AT&T  
12 Mobility Services LLC as the employer but fail to identify AT&T Mobility LLC as an employer.  
13 AT&T Mobility LLC is identified in a Labor Agreement between AT&T Mobility LLC and the  
14 Communication Workers of America as an employer of persons covered by that agreement.

15 27. During the relevant time frame, Plaintiff and RSC Class members have been  
16 systematically denied all extra hours of pay, at these employees' true regular rates of pay, as  
17 required by California law where meal periods were not provided and rest periods not authorized  
18 and permitted. Rather, when Defendants did pay the extra hours of pay, Defendants did so at the  
19 employees' base regular rate of pay and not their true regular rate of pay which includes  
20 commissions, incentive pay, and other forms of compensation that is factored into the calculation  
21 of the employees' regular rate of pay.

22 28. During the relevant time frame, Plaintiff and RSC Class members were not  
23 exempt from receiving the applicable minimum wages and overtime wages. Notwithstanding  
24 this, these persons had their rights violated through Defendants' failure to pay applicable  
25 minimum, overtime, and regular wages. Such violations resulted from Defendants' conduct  
26 which includes, but is not limited to: (i) failing to pay for all time worked arising from time spent  
27 waiting for issuance and return of electronic devices (e.g., iPads) for work; and (ii) failing to pay  
28 for all time worked to closing shift RSC Class members arising from time spent waiting to be

1 released from work at the end of closing shifts as a result of procedures such as lock-up, closing  
2 up, and alarming procedures.

3 29. During the relevant time frame, Plaintiff and RSC Waiting Time Sub Class  
4 members each were required to be paid timely upon separation of employment in accordance  
5 with California Labor Code §§201, 202, and 203. Defendants, through their actions including  
6 those alleged herein of not paying proper wages, wilfully have not paid these employees all  
7 wages due during upon separation of employment.

8 30. During the relevant time frame, Defendants engaged in unlawful conduct and  
9 unfair competition resulting in injury to Plaintiff and, on information and belief, others through  
10 their violation of California's wage and hour laws alleged herein.

11 **FIRST CAUSE OF ACTION**

12 **Class Claim for Violation of California Labor Code §1197 Against All Defendants**  
13 **(Minimum Wage Claim)**

14 31. Plaintiff repeats and incorporates herein by reference each and every allegation  
15 contained above, as though fully set forth herein.

16 32. California Labor Code §1197 specifies that an employer engages in an unlawful  
17 act if it pays employees an amount less than the lawful minimum wage fixed by the California  
18 IWC Wage Order.

19 33. The "Minimum Wages" section of the applicable California IWC Wage Order  
20 makes it unlawful for an employer to pay less than the applicable minimum wage for all hours  
21 worked, whether the remuneration is measured by time, piece, commission, or otherwise.

22 34. During times relevant, Defendants failed to pay, at least minimum wages for all  
23 hours worked, to Plaintiff and members of the RSC Class. This occurred as a result of  
24 Defendants' conduct of, among other things: (i) failing to pay for all time worked arising from  
25 time spent waiting for issuance and return of electronic devices (e.g., iPads) for work; and (ii)  
26 failing to pay for all time worked to closing shift RSC Class members arising from time spent  
27 waiting to be released from work at the end of closing shifts as a result of procedures such as  
28 lock-up, closing up, and alarming procedures.

35. California Labor Code §§201 and 202 set forth timing requirements for the payment of wages to employees who are separating employment. A violation of California Labor Code §§201 and/or 202 results in payment waiting time penalties under California Labor Code §203.

36. During times relevant, Defendants failed to pay Plaintiff and members of the RSC Waiting Time Sub Class wages timely in conformance with the requirements set forth in California Labor Code §§201 and 202, as applicable.

37. For this violation, Plaintiff and members of the RSC Class are entitled to and seek the payment of the unlawfully withheld minimum wages and further seek recovery of any and all available remedies to the extent permissible including recovery of interest, attorneys' fees and costs, and liquidated damages relating to any unpaid minimum wages under California Labor Code §§1194 and 1194.2. Further, Plaintiff and members of the RSC Waiting Time Sub Class who have not been paid timely within the statutory period set forth in California Labor Code §§201 and 202 are entitled to and seek recovery of penalties under California Labor Code §203.

## **SECOND CAUSE OF ACTION**

### **Class Claim for Violation of California Labor Code §510 Against All Defendants (Overtime Claim)**

38. Plaintiff repeats and incorporates herein by reference each and every allegation contained above, as though fully set forth herein.

39. California Labor Code §510(a) provides in relevant part with respect to non-exempt employees:

Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

1           40. During times relevant, Defendants failed to pay overtime wages for all hours  
 2 worked to Plaintiff and members of the RSC Class. This occurred as a result of Defendants'  
 3 conduct of, among other things: (i) failing to pay for all time worked arising from time spent  
 4 waiting for issuance and return of electronic devices (e.g., iPads) for work; and (ii) failing to pay  
 5 for all time worked to closing shift RSC Class members arising from time spent waiting to be  
 6 released from work at the end of closing shifts as a result of procedures such as lock-up, closing  
 7 up, and alarming procedures.

8           41. California Labor Code §§201 and 202 set forth timing requirements for the  
 9 payment of wages to employees who are separating employment. A violation of California  
 10 Labor Code §§201 and/or 202 results in payment waiting time penalties under California Labor  
 11 Code §203.

12           42. During times relevant, Defendants failed to pay Plaintiff and members of the RSC  
 13 Waiting Time Sub Class wages timely in conformance with the requirements set forth in  
 14 California Labor Code §§201 and 202, as applicable.

15           43. For this violation, Plaintiff and members of the RSC Class are entitled to and seek  
 16 the payment of the unlawfully withheld overtime wages and further seek recovery of any and all  
 17 available remedies to the extent permissible including recovery of interest, attorneys' fees and  
 18 costs, and liquidated damages relating to any unpaid overtime wages under California Labor  
 19 Code §§1194 and 1194.2. Further, Plaintiff and members of the RSC Waiting Time Sub Class  
 20 who have not been paid timely within the statutory period set forth in California Labor Code  
 21 §§201 and 202 are entitled to and seek recovery of penalties under California Labor Code §203.

### 22                                   **THIRD CAUSE OF ACTION**

#### 23                   **Class Claim for Violation of California Labor Code §226.7(b) Against All Defendants** 24                                   **(Rest Period Claim)**

25           44. Plaintiff repeats and incorporates herein by reference each and every allegation  
 26 contained above, as though fully set forth herein.

27           45. California Labor Code §226.7(b) makes it unlawful for an employer to require  
 28 any employee to work during any paid rest period mandated by an applicable California IWC

1 Wage Order. California Labor Code §1198 additionally makes it unlawful to employ persons  
 2 under conditions prohibited by a Wage Order. The "Rest Periods" section of the applicable  
 3 Wage Order provides the following in relevant part:

4 Every employer shall authorize and permit all employees to take rest periods,  
 5 which insofar as practicable shall be in the middle of each work period. The  
 6 authorized rest period time shall be based on the total hours worked daily at the  
 7 rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.  
 8 However, a rest period need not be authorized for employees whose total daily  
 9 work time is less than three and one-half (3½) hours. Authorized rest period time  
 10 shall be counted, as hours worked for which there shall be no deduction from  
 11 wages.

12 46. California Labor Code §226.7(c) provides that an employer shall pay an employee  
 13 one additional hour of pay at the employee's regular rate of compensation for each workday that  
 14 the rest period is not provided.

15 47. During times relevant, Defendants failed to pay the appropriate payment under  
 16 California Labor Code §226.7(c) because Defendants, if and when paid, paid the additional hour  
 17 not at the employee's true regular rate of compensation, but rather used the employee's base rate  
 18 compensation not taking into account other compensation that forms the regular rate of  
 19 compensation such as commissions and incentive pay.

20 48. For this violation, Plaintiff and members of the RSC Class are entitled to and seek  
 21 one hour of premium pay at the employees' true regular rate of compensation for each day in  
 22 which a paid rest period was not authorized and permitted, and further seek recovery of any and  
 23 all available remedies to the extent permissible including recovery of interest, attorneys' fees, and  
 24 costs.

#### 25 **FOURTH CAUSE OF ACTION**

##### 26 **Class Claim for Violations of California Labor Code §§226.7(b) Against All Defendants 27 (Meal Period Claim)**

28 49. Plaintiff repeats and incorporates herein by reference each and every allegation  
 contained above, as though fully set forth herein.

50. California Labor Code §226.7(b) makes it unlawful for an employer to require  
 any employee to work during any meal period mandated by an applicable California IWC Wage

1 Order. California Labor Code §1198 additionally makes it unlawful to employ persons under  
2 conditions prohibited by a Wage Order. The "Meal Periods" section of the applicable Wage  
3 Order provides the following in relevant part:

4 No employer shall employ any person for a work period of more than five (5)  
5 hours without a meal period of not less than 30 minutes, except that when a work  
6 period of not more than six (6) hours will complete the day's work the meal period  
7 may be waived by mutual consent of the employer and employee. Unless the  
8 employee is relieved of all duty during a 30 minute meal period, the meal period  
9 shall be considered an "on duty" meal period and counted as time worked. An  
10 "on duty" meal period shall be permitted only when the nature of the work  
11 prevents an employee from being relieved of all duty and when by written  
12 agreement between the parties an on-the-job paid meal period is agreed to. The  
written agreement shall state that the employee may, in writing, revoke the  
agreement at any time.... If an employer fails to provide an employee a meal  
period in accordance with the applicable provisions of this order, the employer  
shall pay the employee one (1) hour of pay at the employee's regular rate of  
compensation for each work day that the meal period is not provided.

13 51. California Labor Code §226.7(c) provides that an employer shall pay an employee  
14 one additional hour of pay at the employee's regular rate of compensation for each workday that  
15 the meal period is not provided.

16 52. During times relevant, Defendants failed to pay the appropriate payment under  
17 California Labor Code §226.7(c) because Defendants, if and when paid, paid the additional hour  
18 not at the employee's true regular rate of compensation, but rather used the employee's base rate  
19 compensation not taking into account other compensation that forms the regular rate of  
20 compensation such as commissions and incentive pay.

21 53. For this violation, Plaintiff and members of the RSC Class are entitled to and seek  
22 one hour of premium pay at the employees' true regular rate of compensation for each day in  
23 which a meal period was provided, and further seek recovery of any and all available remedies to  
24 the extent permissible including recovery of interest, attorneys' fees, and costs.

**FIFTH CAUSE OF ACTION**

**Class Claim for Violations of California Labor Code §§201 and 202 Against All Defendants  
(For Failure to Pay Wages Owed on Separation of Employment)**

54. Plaintiff repeats and incorporates herein by reference each and every allegation contained above, as though fully set forth herein.

55. California Labor Code §§201 and 202 require an employer who discharges an employee to pay compensation due and owing to said employee immediately upon discharge and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two hours thereafter, unless the employee has given seventy-two hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages on their last day of work. California Labor Code §203 provides that if an employer willfully fails to pay compensation promptly upon discharge, as required by California Labor Code §§201 and 202, the employer is liable for waiting time penalties in the form of continued compensation for up to thirty work days.

56. During the relevant time period and through its conduct including that alleged herein, Defendants willfully failed and refused, and continue to willfully fail and refuse, to pay Plaintiff and members of the RSC Waiting Time Sub Class their wages, earned and unpaid, either at the time of discharge, or within seventy-two hours of their voluntarily leaving Defendants' employ. Premium, regular, and minimum wages were improperly unpaid, but upon separation, Defendants also failed to pay earned and calculable wages due and owing within the time frame specified by California Labor Code §§201 and 202.

57. Defendants' willful failure to pay Plaintiff and RSC Waiting Time Sub Class members their wages earned and unpaid at the time of discharge, or within seventy-two hours of their voluntarily leaving Defendants' employ, violates California Labor Code §§201 and 202, as applicable. As a result, Defendants are liable to Plaintiff and members of the RSC Waiting Time Sub Class for waiting time penalties under California Labor Code §203, in an amount according to proof at the time of trial.

**SIXTH CAUSE OF ACTION**

**Class Claim for Violation of California Labor Code §226(a) Against All Defendants  
(Pay Stub Claim)**

58. Plaintiff repeats and incorporates herein by reference each and every allegation contained above, as though fully set forth herein.

59. California Labor Code §226(a) sets forth reporting requirements for employers when they pay wages. In relevant part, it states:

Every employer shall ... at the time of each payment of wages, furnish each of his or her employees ... an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer ..., and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee....

California Labor Code §226(e) provides:

An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

California Labor Code §226(e)(2)(B) provides:

An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide accurate and complete information as required by any one or more of items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and easily determine from the wage statement alone one or more of the following: (i) The amount of the gross wages or net wages paid to the employee during the pay period or any of the other information required to be provided on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a); (ii) Which deductions the employer made from

1 gross wages to determine the net wages paid to the employee during the pay  
2 period. Nothing in this subdivision alters the ability of the employer to aggregate  
3 deductions consistent with the requirements of item (4) of subdivision (a)[;] (iii)  
4 The name and address of the employer and, if the employer is a farm labor  
5 contractor, as defined in subdivision (b) of Section 1682, the name and address of  
6 the legal entity that secured the services of the employer during the pay period[;  
7 and] (iv) The name of the employee and only the last four digits of his or her  
8 social security number or an employee identification number other than a social  
9 security number.

10 60. During the relevant time frame, Defendants knowingly and intentionally failed,  
11 and continue to fail, to provide Plaintiff and other members of Pay Stub Class with wage  
12 statements that contained the information required by California Labor Code §226(a). The wage  
13 statements Defendants have provided to Plaintiff and other employees in Pay Stub Class fail to,  
14 among other things, on their face correctly state the work dates for which payments are being  
15 paid including overtime wages, commissions, and adjustments, and accurately itemize the total  
16 hours worked and all applicable hourly rates in effect during the pay period and the  
17 corresponding number of hours worked at each hourly rate in effect each pay period. For  
18 example, the wage statements, on their face, fail to identify a rate of pay, hours worked, and time  
19 periods for "true up payments" and "additional adjustments;" fail to have corresponding time  
20 periods listed for each time period that non-base payments are being made such as overtime and  
21 commissions; fail to accurately itemize the total hours worked; and fail to accurately state the  
22 rate of pay for meal and rest premiums in that the premium payments are not based on the  
23 employees' true regular rate of pay but rather only their base pay. Additionally, the wage  
24 statements fail to accurately itemize hours worked and gross and net wages earned in that for  
25 RSC Class members, the wage statements omit some hours worked and wages earned as a result  
26 of these employees' not being paid for all time spent working while waiting for procedures to be  
27 completed for electronic devices and closing. Furthermore, the wage statements omit required  
28 information about the employer legal entities in that the wage statements identify AT&T  
Mobility Services LLC as the employer but fail to identify AT&T Mobility LLC as an employer.  
AT&T Mobility LLC is identified in a Labor Agreement between AT&T Mobility LLC and the  
Communication Workers of America as an employer of persons covered by that agreement.

1           61. Plaintiff and other Pay Stub Class members have been injured, as defined by  
2 California Labor Code §226, by these omissions and inaccuracies.

3           62. Defendants knowingly and intentionally failed, and continue to fail, to furnish  
4 Plaintiff and Pay Stub Class members complete and accurate wage statements upon each  
5 payment of wages in violation of California Labor Code §226(a). Plaintiff and Pay Stub Class  
6 members have been injured and damaged by these failures because, among other things, it  
7 renders them unable to determine whether Defendants properly recorded their hours worked and  
8 makes it impossible to tell whether they were properly compensated for all pay earned at the  
9 proper rates and during the applicable pay period. Plaintiff and, on information and belief, Pay  
10 Stub Class members are required to engage in discovery and mathematical computations to  
11 reconstruct their time records to determine if they were paid correctly as a result of the inaccurate  
12 and/or incomplete wage statements. Plaintiff and, on information and belief, Pay Stub Class  
13 members cannot easily ascertain from the information provided to them through the wage  
14 statements whether his or her wages and hours have been calculated correctly. Accordingly,  
15 Plaintiff and, on information and belief, Pay Stub Class members cannot promptly and easily  
16 determine from the wage statement alone the information set forth in California Labor Code  
17 §226(e)(2)(B) to assure that he or she is not being underpaid and have had to refer to other  
18 documents and information to attempt to ascertain this information.

19           63. Defendants will no doubt continue these illegal practices until such time as they  
20 are forced to pay monies set forth under California Labor Code §226(e). Defendants moreover  
21 will no doubt continue these illegal practices until such time as they are forced to cease such  
22 practice under the injunctive relief provision of California Labor Code §226(h).

23           64. Plaintiff and Pay Stub Class members are entitled to and seek any and all  
24 available remedies to the extent permissible including injunctive relief and recovery of all  
25 available statutory damages, penalties, interest, attorneys' fees, and costs pursuant to California  
26 Labor Code §226(e) and (h).



**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff requests entry of judgment, on behalf of herself and the other California employees, against each defendant, jointly and severally, as follows:

**Class Certification**

1. That this action be certified as a class action;
2. That Plaintiff be appointed as the representative of the Pay Stub Class, the RSC Class, and the RSC Waiting Time Sub Class; and
3. That counsel for Plaintiff be appointed as counsel for the Pay Stub Class, the RSC Class, and the RSC Waiting Time Sub Class.

**On the First and Second Causes of Action**

1. For repayment of wages and liquidated damages, under the First and Second Causes of Action, to Plaintiff and members of the RSC Class under California Labor Code §§1194 and 1194.2 according to proof and to the extent permissible;
2. For payment of penalties to Plaintiff and members of the RSC Waiting Time Sub Class under California Labor Code §203 according to proof and to the extent permissible;
3. For pre-judgment interest on any unpaid wages due from the day that such amounts were due under California Labor Code §1194;
4. For reasonable attorneys' fees that Plaintiff and members of the RSC Class are entitled to recover under California Labor Code §1194;
5. For costs of suit incurred herein that Plaintiff and members of the RSC Class are entitled to recover under California Labor Code §1194; and
6. For such other and further relief as the Court deems proper.

**On the Third and Fourth Causes of Action**

1. For statutory premium wages to Plaintiff and members of the RSC Class under California Labor Code §226.7(c) according to proof;
2. For reasonable attorneys' fees and costs of suit pursuant to California Code of Civil Procedure §1021.5;

1           3.     For pre-judgment interest on any unpaid wages due from the day that such  
2 amounts were due; and

3           4.     For such other and further relief as the Court deems proper.

4                               On the Fifth Cause of Action

5           1.     For penalties according to proof under California Labor Code §203 to Plaintiff  
6 and members of the RSC Waiting Time Sub Class;

7           2.     For reasonable attorneys' fees;

8           3.     For costs of suit incurred herein; and

9           4.     For such other and further relief as the Court deems proper.

10                           On the Sixth Cause of Action

11          1.     For penalties and damages according to proof under California Labor Code  
12 §226(e) to Plaintiff and Pay Stub Class members;

13          2.     For injunctive relief under California Labor Code §226(h);

14          3.     For reasonable attorneys' fees;

15          4.     For costs of suit incurred herein; and

16          5.     For such other and further relief as the Court deems proper.

17                           On the Seventh Cause of Action

18          1.     That Defendants, jointly and/or severally, pay restitution and/or disgorgement of  
19 sums to Plaintiff and members of the RSC Class for their failures to pay all minimum wages over  
20 the last four years in an amount according to proof;

21          2.     That Defendants, jointly and/or severally, pay restitution and/or disgorgement of  
22 sums to Plaintiff and members of the RSC Class for their failures to pay all overtime wages over  
23 the last four years in an amount according to proof;

24          3.     That Defendants, jointly and/or severally, pay restitution and/or disgorgement of  
25 sums to Plaintiff and members of the RSC Class for their failures to pay all wages due and owing  
26 over the last four years as in an amount according to proof;

27          4.     That Defendants, jointly and/or severally, pay restitution and/or disgorgement of  
28 sums to Plaintiff and members of the RSC Class for their failures to pay correct premium wages

1 for rest periods that were not authorized and permitted over the last four years in an amount  
2 according to proof;

3 5. That Defendants, jointly and/or severally, pay restitution and/or disgorgement of  
4 sums to Plaintiff and members of the RSC Class for their failures to pay correct premium wages  
5 for meal periods that were not provided over the last four years in an amount according to proof;

6 6. For pre-judgment interest on any unpaid wages due from the day that such  
7 amounts were due;

8 7. For reasonable attorneys' fees that Plaintiff and members of the RSC Class are  
9 entitled to recover under California Labor Code §§218.5 and 1194, and California Code of Civil  
10 Procedure §1021.5;

11 8. For costs of suit incurred herein that Plaintiff and members of the RSC Class are  
12 entitled to recover under California Labor Code §§218.5 and 1194; and

13 9. For such other and further relief as the Court deems proper.

14 **DEMAND FOR JURY TRIAL**

15 Plaintiff requests a jury trial in this matter.

16 Dated: April 30, 2014

ROBBINS ARROYO LLP  
THE DENTE LAW FIRM

17  
18 By:   
19 DIANE E. RICHARD

20 Attorneys for Plaintiff Tran K. Ly

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Diane E. Richard (#204897) ROBBINS ARROYO LLP 600 B Street, Suite 1900 San Diego, CA 92101 TELEPHONE NO.: (619) 525-3990 FAX NO.: (619) 525-3991 ATTORNEY FOR (Name): Plaintiff Tran K. Ly		<b>FOR COURT USE ONLY</b>  <b>ELECTRONICALLY FILED</b> Superior Court of California, County of San Diego  <b>04/30/2014 at 02:43:26 PM</b>  Clerk of the Superior Court By Bernice Orihuela, Deputy Clerk	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego STREET ADDRESS: 330 West Broadway MAILING ADDRESS: CITY AND ZIP CODE: San Diego, CA 92101 BRANCH NAME: Central		CASE NUMBER: 37-2014-00013654-CU-0E-CTL  JUDGE: Judge Joel R. Wohlfeil DEPT:	
CASE NAME: Ly v. AT&T Mobility Services LLC, et al.			
<b>CIVIL CASE COVER SHEET</b> <input checked="" type="checkbox"/> <b>Unlimited</b> (Amount demanded exceeds \$25,000) <input type="checkbox"/> <b>Limited</b> (Amount demanded is \$25,000 or less)		<b>Complex Case Designation</b> <input type="checkbox"/> <b>Counter</b> <input type="checkbox"/> <b>Joinder</b> Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	

Items 1-6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

<b>Auto Tort</b> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46)  <b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23)  <b>Non-PI/PD/WD (Other) Tort</b> <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35)  <b>Employment</b> <input type="checkbox"/> Wrongful termination (36) <input checked="" type="checkbox"/> Other employment (15)	<b>Contract</b> <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37)  <b>Real Property</b> <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26)  <b>Unlawful Detainer</b> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38)  <b>Judicial Review</b> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<b>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</b> <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)  <b>Enforcement of Judgment</b> <input type="checkbox"/> Enforcement of judgment (20)  <b>Miscellaneous Civil Complaint</b> <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42)  <b>Miscellaneous Civil Petition</b> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
---	--	--

2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- |   |  |
|---|--|
| a. <input type="checkbox"/> Large number of separately represented parties  | d. <input type="checkbox"/> Large number of witnesses  |
| b. <input checked="" type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input checked="" type="checkbox"/> Substantial amount of documentary evidence   | f. <input type="checkbox"/> Substantial postjudgment judicial supervision  |
3. Remedies sought (check all that apply): a. ☒ monetary    b. ☒ nonmonetary; declaratory or injunctive relief    c. ☐ punitive
4. Number of causes of action (specify): 7
5. This case ☒ is ☐ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: April 30, 2014

Diane E. Richard

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

CM-010

## INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

**To Plaintiffs and Others Filing First Papers.** If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

**To Parties in Rule 3.740 Collections Cases.** A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

**To Parties in Complex Cases.** In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

## CASE TYPES AND EXAMPLES

<p><b>Auto Tort</b></p> <p>Auto (22)–Personal Injury/Property Damage/Wrongful Death</p> <p>Uninsured Motorist (46) (<i>if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto</i>)</p> <p><b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b></p> <p>Asbestos (04)</p> <p>Asbestos Property Damage</p> <p>Asbestos Personal Injury/Wrongful Death</p> <p>Product Liability (<i>not asbestos or toxic/environmental</i>) (24)</p> <p>Medical Malpractice (45)</p> <p>Medical Malpractice–Physicians &amp; Surgeons</p> <p>Other Professional Health Care Malpractice</p> <p>Other PI/PD/WD (23)</p> <p>Premises Liability (e.g., slip and fall)</p> <p>Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)</p> <p>Intentional Infliction of Emotional Distress</p> <p>Negligent Infliction of Emotional Distress</p> <p>Other PI/PD/WD</p> <p><b>Non-PI/PD/WD (Other) Tort</b></p> <p>Business Tort/Unfair Business Practice (07)</p> <p>Civil Rights (e.g., discrimination, false arrest) (<i>not civil harassment</i>) (08)</p> <p>Defamation (e.g., slander, libel) (13)</p> <p>Fraud (16)</p> <p>Intellectual Property (19)</p> <p>Professional Negligence (25)</p> <p>Legal Malpractice</p> <p>Other Professional Malpractice (<i>not medical or legal</i>)</p> <p>Other Non-PI/PD/WD Tort (35)</p> <p><b>Employment</b></p> <p>Wrongful Termination (36)</p> <p>Other Employment (15)</p>	<p><b>Contract</b></p> <p>Breach of Contract/Warranty (06)</p> <p>Breach of Rental/Lease Contract (<i>not unlawful detainer or wrongful eviction</i>)</p> <p>Contract/Warranty Breach–Seller Plaintiff (<i>not fraud or negligence</i>)</p> <p>Negligent Breach of Contract/Warranty</p> <p>Other Breach of Contract/Warranty</p> <p>Collections (e.g., money owed, open book accounts) (09)</p> <p>Collection Case–Seller Plaintiff</p> <p>Other Promissory Note/Collections Case</p> <p>Insurance Coverage (<i>not provisionally complex</i>) (18)</p> <p>Auto Subrogation</p> <p>Other Coverage</p> <p>Other Contract (37)</p> <p>Contractual Fraud</p> <p>Other Contract Dispute</p> <p><b>Real Property</b></p> <p>Eminent Domain/Inverse Condemnation (14)</p> <p>Wrongful Eviction (33)</p> <p>Other Real Property (e.g., quiet title) (26)</p> <p>Writ of Possession of Real Property</p> <p>Mortgage Foreclosure</p> <p>Quiet Title</p> <p>Other Real Property (<i>not eminent domain, landlord/tenant, or foreclosure</i>)</p> <p><b>Unlawful Detainer</b></p> <p>Commercial (31)</p> <p>Residential (32)</p> <p>Drugs (38) (<i>if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential</i>)</p> <p><b>Judicial Review</b></p> <p>Asset Forfeiture (05)</p> <p>Petition Re: Arbitration Award (11)</p> <p>Writ of Mandate (02)</p> <p>Writ–Administrative Mandamus</p> <p>Writ–Mandamus on Limited Court Case Matter</p> <p>Writ–Other Limited Court Case Review</p> <p>Other Judicial Review (39)</p> <p>Review of Health Officer Order</p> <p>Notice of Appeal–Labor Commissioner Appeals</p>	<p><b>Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)</b></p> <p>Antitrust/Trade Regulation (03)</p> <p>Construction Defect (10)</p> <p>Claims Involving Mass Tort (40)</p> <p>Securities Litigation (28)</p> <p>Environmental/Toxic Tort (30)</p> <p>Insurance Coverage Claims (<i>arising from provisionally complex case type listed above</i>) (41)</p> <p><b>Enforcement of Judgment</b></p> <p>Enforcement of Judgment (20)</p> <p>Abstract of Judgment (Out of County)</p> <p>Confession of Judgment (<i>non-domestic relations</i>)</p> <p>Sister State Judgment</p> <p>Administrative Agency Award (<i>not unpaid taxes</i>)</p> <p>Petition/Certification of Entry of Judgment on Unpaid Taxes</p> <p>Other Enforcement of Judgment Case</p> <p><b>Miscellaneous Civil Complaint</b></p> <p>RICO (27)</p> <p>Other Complaint (<i>not specified above</i>) (42)</p> <p>Declaratory Relief Only</p> <p>Injunctive Relief Only (<i>non-harassment</i>)</p> <p>Mechanics Lien</p> <p>Other Commercial Complaint Case (<i>non-tort/non-complex</i>)</p> <p>Other Civil Complaint (<i>non-tort/non-complex</i>)</p> <p><b>Miscellaneous Civil Petition</b></p> <p>Partnership and Corporate Governance (21)</p> <p>Other Petition (<i>not specified above</i>) (43)</p> <p>Civil Harassment</p> <p>Workplace Violence</p> <p>Elder/Dependent Adult Abuse</p> <p>Election Contest</p> <p>Petition for Name Change</p> <p>Petition for Relief From Late Claim</p> <p>Other Civil Petition</p>
---	---	--

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO</b>	
STREET ADDRESS: 330 W Broadway	
MAILING ADDRESS: 330 W Broadway	
CITY AND ZIP CODE: San Diego, CA 92101-3827	
BRANCH NAME: Central	
TELEPHONE NUMBER: (619) 450-7073	
PLAINTIFF(S) / PETITIONER(S): Tran K Ly	
DEFENDANT(S) / RESPONDENT(S): AT&T MOBILITY SERVICES LLC et.al.	
TRAN K LY VS AT&T MOBILITY SERVICES LLC [E-FILE]	
<b>NOTICE OF CASE ASSIGNMENT AND CASE MANAGEMENT CONFERENCE on MANDATORY eFILE CASE</b>	CASE NUMBER: 37-2014-00013654-CU-OE-CTL

**CASE ASSIGNMENT**

Judge: Joel R. Wohlfeil

Department: C-73

**COMPLAINT/PETITION FILED: 04/30/2014**

TYPE OF HEARING SCHEDULED	DATE	TIME	DEPT	JUDGE
Civil Case Management Conference	10/03/2014	01:30 pm	C-73	Joel R. Wohlfeil

A case management statement must be completed by counsel for all parties or self-represented litigants and timely filed with the court at least 15 days prior to the initial case management conference. (San Diego Local Rules, Division II, CRC Rule 3.725).

All counsel of record or parties in pro per shall appear at the Case Management Conference, be familiar with the case, and be fully prepared to participate effectively in the hearing, including discussions of ADR\* options.

IT IS THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE COMPLAINT (AND CROSS-COMPLAINT), THE ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION FORM (SDSC FORM #CIV-730), A STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR) (SDSC FORM #CIV-359), AND OTHER DOCUMENTS AS SET OUT IN SDSC LOCAL RULE 2.1.5.

ALL COUNSEL WILL BE EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND WILL BE STRICTLY ENFORCED.

**TIME STANDARDS:** The following timeframes apply to general civil cases and must be adhered to unless you have requested and been granted an extension of time. General civil cases consist of all civil cases except: small claims proceedings, civil petitions, unlawful detainer proceedings, probate, guardianship, conservatorship, juvenile, parking citation appeals, and family law proceedings.

**COMPLAINTS:** Complaints and all other documents listed in SDSC Local Rule 2.1.5 must be served on all named defendants.

**DEFENDANT'S APPEARANCE:** Defendant must generally appear within 30 days of service of the complaint. (Plaintiff may stipulate to no more than 15 day extension which must be in writing and filed with the Court.) (SDSC Local Rule 2.1.6)

**JURY FEES:** In order to preserve the right to a jury trial, one party for each side demanding a jury trial shall pay an advance jury fee in the amount of one hundred fifty dollars (\$150) on or before the date scheduled for the initial case management conference in the action.

**MANDATORY eFILE:** Case assigned to mandatory eFile program per CRC 3.400-3.403 and SDSC Rule 2.4.11. All documents must be eFiled at [www.onelegal.com](http://www.onelegal.com). Refer to General Order 010313 at [www.sdcourt.ca.gov](http://www.sdcourt.ca.gov) for guidelines and procedures.

\*ALTERNATIVE DISPUTE RESOLUTION (ADR): THE COURT ENCOURAGES YOU TO CONSIDER UTILIZING VARIOUS ALTERNATIVES TO TRIAL, INCLUDING MEDIATION AND ARBITRATION, PRIOR TO THE CASE MANAGEMENT CONFERENCE. PARTIES MAY FILE THE ATTACHED STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (SDSC FORM #CIV-359).



## SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

### ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION

CASE NUMBER: 37-2014-00013654-CU-OE-CTL CASE TITLE:

Tran K Ly vs At&T Mobility Services LLC [E-FILE]

**NOTICE:** All plaintiffs/cross-complainants in a general civil case are required to serve a copy of the following three forms on each defendant/cross-defendant, together with the complaint/cross-complaint:

- (1) this Alternative Dispute Resolution (ADR) Information form (SDSC form #CIV-730),
- (2) the Stipulation to Use Alternative Dispute Resolution (ADR) form (SDSC form #CIV-359), and
- (3) the Notice of Case Assignment form (SDSC form #CIV-721).

Most civil disputes are resolved without filing a lawsuit, and most civil lawsuits are resolved without a trial. The courts, community organizations, and private providers offer a variety of Alternative Dispute Resolution (ADR) processes to help people resolve disputes without a trial. The San Diego Superior Court expects that litigants will utilize some form of ADR as a mechanism for case settlement before trial, and it may be beneficial to do this early in the case.

Below is some information about the potential advantages and disadvantages of ADR, the most common types of ADR, and how to find a local ADR program or neutral. A form for agreeing to use ADR is attached (SDSC form #CIV-359).

#### **Potential Advantages and Disadvantages of ADR**

ADR may have a variety of advantages or disadvantages over a trial, depending on the type of ADR process used and the particular case:

##### **Potential Advantages**

- Saves time
- Saves money
- Gives parties more control over the dispute resolution process and outcome
- Preserves or improves relationships

##### **Potential Disadvantages**

- May take more time and money if ADR does not resolve the dispute
- Procedures to learn about the other side's case (discovery), jury trial, appeal, and other court protections may be limited or unavailable

#### **Most Common Types of ADR**

You can read more information about these ADR processes and watch videos that demonstrate them on the court's ADR webpage at <http://www.sdcourt.ca.gov/adr>.

**Mediation:** A neutral person called a "mediator" helps the parties communicate in an effective and constructive manner so they can try to settle their dispute. The mediator does not decide the outcome, but helps the parties to do so. Mediation is usually confidential, and may be particularly useful when parties want or need to have an ongoing relationship, such as in disputes between family members, neighbors, co-workers, or business partners, or when parties want to discuss non-legal concerns or creative resolutions that could not be ordered at a trial.

**Settlement Conference:** A judge or another neutral person called a "settlement officer" helps the parties to understand the strengths and weaknesses of their case and to discuss settlement. The judge or settlement officer does not make a decision in the case but helps the parties to negotiate a settlement. Settlement conferences may be particularly helpful when the parties have very different ideas about the likely outcome of a trial and would like an experienced neutral to help guide them toward a resolution.

**Arbitration:** A neutral person called an "arbitrator" considers arguments and evidence presented by each side and then decides the outcome of the dispute. Arbitration is less formal than a trial, and the rules of evidence are usually relaxed. If the parties agree to binding arbitration, they waive their right to a trial and agree to accept the arbitrator's decision as final. With nonbinding arbitration, any party may reject the arbitrator's decision and request a trial. Arbitration may be appropriate when the parties want another person to decide the outcome of their dispute but would like to avoid the formality, time, and expense of a trial.

**Other ADR Processes:** There are several other types of ADR which are not offered through the court but which may be obtained privately, including neutral evaluation, conciliation, fact finding, mini-trials, and summary jury trials. Sometimes parties will try a combination of ADR processes. The important thing is to try to find the type or types of ADR that are most likely to resolve your dispute. Be sure to learn about the rules of any ADR program and the qualifications of any neutral you are considering, and about their fees.

### **Local ADR Programs for Civil Cases**

**Mediation:** The San Diego Superior Court maintains a Civil Mediation Panel of approved mediators who have met certain minimum qualifications and have agreed to charge \$150 per hour for each of the first two (2) hours of mediation and their regular hourly rate thereafter in court-referred mediations.

**On-line mediator search and selection:** Go to the court's ADR webpage at [www.sdcourt.ca.gov/adr](http://www.sdcourt.ca.gov/adr) and click on the "Mediator Search" to review individual mediator profiles containing detailed information about each mediator including their dispute resolution training, relevant experience, ADR specialty, education and employment history, mediation style, and fees and to submit an on-line Mediator Selection Form (SDSC form #CIV-005). The Civil Mediation Panel List, the Available Mediator List, individual Mediator Profiles, and Mediator Selection Form (CIV-005) can also be printed from the court's ADR webpage and are available at the Mediation Program Office or Civil Business Office at each court location.

**Settlement Conference:** The judge may order your case to a mandatory settlement conference, or voluntary settlement conferences may be requested from the court if the parties certify that: (1) settlement negotiations between the parties have been pursued, demands and offers have been tendered in good faith, and resolution has failed; (2) a judicially supervised settlement conference presents a substantial opportunity for settlement; and (3) the case has developed to a point where all parties are legally and factually prepared to present the issues for settlement consideration and further discovery for settlement purposes is not required. Refer to SDSC Local Rule 2.2.1 for more information. To schedule a settlement conference, contact the department to which your case is assigned.

**Arbitration:** The San Diego Superior Court maintains a panel of approved judicial arbitrators who have practiced law for a minimum of five years and who have a certain amount of trial and/or arbitration experience. Refer to SDSC Local Rules Division II, Chapter III and Code Civ. Proc. § 1141.10 et seq or contact the Arbitration Program Office at (619) 450-7300 for more information.

**More information about court-connected ADR:** Visit the court's ADR webpage at [www.sdcourt.ca.gov/adr](http://www.sdcourt.ca.gov/adr) or contact the court's Mediation/Arbitration Office at (619) 450-7300.

**Dispute Resolution Programs Act (DRPA) funded ADR Programs:** The following community dispute resolution programs are funded under DRPA (Bus. and Prof. Code §§ 465 et seq.):

- In Central, East, and South San Diego County, contact the National Conflict Resolution Center (NCRC) at [www.ncrconline.com](http://www.ncrconline.com) or (619) 238-2400.
- In North San Diego County, contact North County Lifeline, Inc. at [www.nclifeline.org](http://www.nclifeline.org) or (760) 726-4900.

**Private ADR:** To find a private ADR program or neutral, search the Internet, your local telephone or business directory, or legal newspaper for dispute resolution, mediation, settlement, or arbitration services.

### **Legal Representation and Advice**

To participate effectively in ADR, it is generally important to understand your legal rights and responsibilities and the likely outcomes if you went to trial. ADR neutrals are not allowed to represent or to give legal advice to the participants in the ADR process. If you do not already have an attorney, the California State Bar or your local County Bar Association can assist you in finding an attorney. Information about obtaining free and low cost legal assistance is also available on the California courts website at [www.courtinfo.ca.gov/selfhelp/lowcost](http://www.courtinfo.ca.gov/selfhelp/lowcost).

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO</b> STREET ADDRESS: 330 West Broadway MAILING ADDRESS: 330 West Broadway CITY, STATE, & ZIP CODE: San Diego, CA 92101-3827 BRANCH NAME: Central	FOR COURT USE ONLY
PLAINTIFF(S): Tran K Ly	
DEFENDANT(S): AT&T MOBILITY SERVICES LLC et.al.	
SHORT TITLE: TRAN K LY VS AT&T MOBILITY SERVICES LLC [E-FILE]	
<b>STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR)</b>	CASE NUMBER: 37-2014-00013654-CU-OE-CTL

Judge: Joel R. Wohlfeil

Department: C-73

The parties and their attorneys stipulate that the matter is at issue and the claims in this action shall be submitted to the following alternative dispute resolution (ADR) process. Selection of any of these options will not delay any case management timelines.

- |   |  |
|---|--|
| <input type="checkbox"/> Mediation (court-connected)  | <input type="checkbox"/> Non-binding private arbitration   |
| <input type="checkbox"/> Mediation (private)  | <input type="checkbox"/> Binding private arbitration   |
| <input type="checkbox"/> Voluntary settlement conference (private)                            | <input type="checkbox"/> Non-binding judicial arbitration (discovery until 15 days before trial) |
| <input type="checkbox"/> Neutral evaluation (private)   | <input type="checkbox"/> Non-binding judicial arbitration (discovery until 30 days before trial) |
| <input type="checkbox"/> Other (specify e.g., private mini-trial, private judge, etc.): _____ |  |

It is also stipulated that the following shall serve as arbitrator, mediator or other neutral: (Name) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Alternate neutral (for court Civil Mediation Program and arbitration only): \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Name of Plaintiff

Name of Defendant

Signature

Signature

Name of Plaintiff's Attorney

Name of Defendant's Attorney

Signature

Signature

If there are more parties and/or attorneys, please attach additional completed and fully executed sheets.

It is the duty of the parties to notify the court of any settlement pursuant to Cal. Rules of Court, rule 3.1385. Upon notification of the settlement, the court will place this matter on a 45-day dismissal calendar.

No new parties may be added without leave of court.

**IT IS SO ORDERED.**

Dated: 05/01/2014

JUDGE OF THE SUPERIOR COURT

1  
2  
3  
4  
5  
6  
7  
8 **THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF SAN DIEGO**  
10

11 **IN RE PROCEDURES**  
12 **REGARDING**  
13 **ELECTRONIC FILING**  
14  
15

11 **GENERAL ORDER OF THE**  
12 **PRESIDING DEPARTMENT**  
13 **ORDER NO. 010214-24 (A)**  
14  
15

16  
17 This order superseded General Order No.: 010214-24.

18 **THIS COURT FINDS AND ORDERS AS FOLLOWS:**

19 On August 1, 2011, the San Diego Superior Court ("court") began an Electronic  
20 Filing and Imaging Pilot Program ("Program") designed to reduce paper filings and  
21 storage, facilitate electronic access to civil court files and, in Phase Two, allow remote  
22 electronic filing ("E-File" or "E-Filing") of papers in civil cases. The ultimate goal of the  
23 Program is to create a paperless or electronic file in all civil cases, as well as in other  
24 case categories.

25 Phase One of the Program, described in General Order: *In re Procedures*  
26 *Regarding Electronically Imaged Court Records, Electronic Filing, and Access to*  
27 *Electronic Court Records*, involved the court's scanning of papers in newly filed cases in  
28 designated divisions and departments (the "Imaging Project"). Phase Two of the Program

1 involved the implementation of electronic filing by counsel and parties through the court's  
2 E-File Service Provider, One Legal. Electronic filing under Phase Two of the Program  
3 was limited to the Central Civil Division only and it excluded Probate and Construction  
4 Defect Cases. Electronic filing under Phase Three of the Program expanded electronic  
5 filing to include permissive electronic filing in Probate cases. North County Civil Divisions  
6 of the Superior Court and Construction Defect cases, in the Central Division, were  
7 excluded from Phase Three of the Program.

8       Electronic Filing under Phase Four of the Program expands electronic filing to  
9 include **mandatory** E-Filing in Construction Defect Cases in the Central Division through  
10 the court's E-File Service Provider. This General Order relates to Phase Four, and  
11 supplements General Orders: *In re Procedures Regarding Electronically Imaged Court*  
12 *Records, Electronic Filing, and Access to Electronic Court Records*.

13       Effective **June 2, 2014**, mandatory electronic filing through the court E-File Service  
14 Provider One Legal will be required for all Construction Defect Cases, including those  
15 currently being filed through File&Serve Xpress (fka LexisNexis File&Serve). As of **5:01**  
16 **p.m. on May 30, 2014**, no documents will be allowed to be filed through File&Serve  
17 Xpress. Further information on these initiatives can be found on the court's website, at  
18 [www.sdcourt.ca.gov](http://www.sdcourt.ca.gov).

19       Filing and service of documents by electronic means is governed by Code of Civil  
20 Procedure Section 1010.6 and California Rules of Court ("CRC"), rules 2.250 et seq. and  
21 CRC 2.30. In addition, the San Diego Superior Court's specific requirements for E-filing  
22 are available on the court's website at [www.sdcourt.ca.gov](http://www.sdcourt.ca.gov). Litigants and attorneys  
23 electronically filing documents must comply with all applicable rules and requirements.

24       This General Order supercedes and replaces all Electronic Filing and Service  
25 Orders previously entered in Construction Defect Cases.

## 26 **GENERAL E-FILING REQUIREMENTS**

27       Documents can only be electronically filed through the court's electronic service  
28 provider (the "Provider"). E-file Provider information is available on the court's website.

1 Any document filed electronically shall be considered as filed with the Clerk of the  
2 Superior Court when it is first transmitted to the Provider and the transmission is  
3 completed, except that any document filed on a day that the court is not open for business,  
4 or after 5:00 p.m. (Pacific Time) on a day the court is open for business, shall be deemed  
5 to have been filed on the next court day.

6 Additional and more specific information on electronic filing can be found on the  
7 court's website.

8 This Order shall expire on December 31, 2014, unless otherwise ordered by this  
9 court.

10 IT IS SO ORDERED.

11 Dated: March 28, 2014

A handwritten signature in black ink, reading "David J. Danielson", is written over a horizontal line.

12 HON. DAVID J. DANIELSEN  
13 PRESIDING JUDGE  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**ELECTRONIC FILING REQUIREMENTS OF THE**  
**SAN DIEGO SUPERIOR COURT – CENTRAL CIVIL DIVISION**

These requirements are issued pursuant to California Rules of Court ("CRC"), rules 2.250 et seq., Code of Civil Procedure section 1010.6, and San Diego Superior Court General Order: *In re Procedures Regarding Electronic Filing*.

Effective November 1, 2013, documents that are determined to be unacceptable for eFiling by the Court due to eFiling system restrictions or for failure to comply with these requirements will be rejected subject to being allowed to be filed nunc pro tunc to the original submittal date upon ex-parte application to the court and upon good cause shown.

It is the duty of the plaintiff (and cross-complainant) to serve a copy of the General Order of the Presiding Department, Order No. **010214-24A**, and Electronic Filing Requirements of the San Diego Superior Court with the complaint (and cross-complaint).

**PERMISSIVE eFILING**

**Effective March 4, 2013**, documents **may be filed electronically** in non-mandated civil cases in the Central Division where either: (1) the case is first initiated on or after March 4, 2013; or (2) the case is already pending as of March 4, 2013 and has been imaged by the court.

**MANDATORY eFILING**

The case types that shall be subject to mandatory eFiling are: civil class actions; consolidated and coordinated actions where all cases involved are imaged cases; and actions that are provisionally complex under CRC 3.400-3.403 (as set

forth in the Civil Cover Sheet, Judicial Council form CM-010 – including Construction Defect actions). "Complex cases" included in mandatory eFiling include Antitrust/Trade Regulation, Mass Tort, Environmental/Toxic Tort, and Securities Litigation cases, as well as insurance coverage claims arising from these case types. Effective **June 2, 2014** Construction Defect and other cases, currently being electronically filed through File&Serve Xpress (fka LexisNexis File&Serve), must be electronically filed through the court's Electronic Filing Service Provider, One Legal.

Documents electronically filed in Construction Defect and other cases prior to **June 2, 2014** will be maintained in the File&Serve Xpress system and can be viewed via a File&Serve Xpress subscription or on the Public Access Terminal (PAT) located in Room 241 of the Hall of Justice (2<sup>nd</sup> floor).

For cases of the type subject to mandatory eFiling that are initiated on or after March 4, 2013, all documents **must be filed electronically**, subject to the exceptions set forth below.

For cases of the type subject to mandatory eFiling that are already pending as of March 3, 2013, and provided that the case has been imaged by the court, all documents filed on or after March 4, 2013 **must be filed electronically**, subject to the exceptions set forth below.

A party may request to be excused from mandatory electronic filing requirements. This request must be in writing and may be made by ex parte application to the judge or department to whom the case is assigned. The clerk will not accept or file any documents in paper form that are required to be filed electronically, absent a court order allowing the filing.

Self-represented litigants are not required to EFile in a mandatory EFile case; however, they may EFile if they choose to do so and/or are otherwise ordered to EFile by the court.

### **REQUIREMENTS FOR ALL eFILERS**

EFile documents can only be filed through the court's Electronic Filing Service Provider (the "Provider"). See [www.onelegal.com](http://www.onelegal.com).

Efilers must comply with CRC 2.250-2.261. Also, all documents electronically filed must be in a text searchable format, i.e., OCR. The court is unable to accept documents that do not comply with these requirements, or documents that include but are not limited to: digitized signatures, fillable forms, or a negative image.

Documents that contain exhibits must be bookmarked, as set forth on the Provider's site. Documents not so bookmarked are subject to rejection. Moving papers with exhibits that are not bookmarked will be rejected. (See CRC 3.1110(f) with bookmarking being the substitute for plastic tabs in electronically filed documents.)

Exhibits to be considered via a Notice of Lodgment shall not be attached to the electronically filed Notice of Lodgment; instead, the submitting party must provide the assigned department with hard copies of the exhibits with a copy of the Notice of Lodgment that includes the eFiling Transaction ID# noted in the upper right hand corner.

Unless otherwise required by law, per CRC 1.20(b) only the last four digits of a social security or financial account number may be reflected in court case filings. Exclusion or redaction is the responsibility of the filer, not the clerk, CRC 1.20(b)(3). Failure to comply with this requirement may result in monetary sanctions, CRC 2.30(b).

Proposed filings, such as proposed court orders and amended complaints, should be submitted as an exhibit and then re-submitted as a separate and new eFiling transaction after the Court has ruled on the matter to which the proposed document

applies. See also CRC 3.1312.

Any document filed electronically shall be considered as filed with the Clerk of the Superior Court when it is first transmitted to the vendor and the transmission is completed, except that any document filed on a day that the court is not open for business, or after 5:00 p.m. (Pacific Time) on a day the court is open for business, **shall be deemed to have been filed on the next court day.**

Please be advised that you must schedule a motion hearing date directly with the Independent Calendar Department. A motion filed without an appointment, even when a conformed copy of the filing is provided by the court, is not scheduled and the hearing will not occur.

If a hearing is set within 2 court days of the time documents are electronically filed, litigant(s) must provide hard copies of the documents to the court. Transaction ID numbers must be noted on the documents to the extent it is feasible to do so. Hard copies for Ex Parte hearings must be delivered directly to the department on or before 12 Noon the court day immediately preceding the hearing date.

An original of all documents filed electronically, including original signatures, shall be maintained by the party filing the document, pursuant to CRC 2.257.

**DOCUMENTS INELIGIBLE FOR ELECTRONIC FILING** The following documents are **not eligible for eFiling** in cases subject to either mandatory or permissive filing, and shall be filed in paper form:

- Safe at Home Name Change Petitions
- Civil Harassment TRO/RO
- Workplace Violence TRO/RO
- Elder Abuse TRO/RO

- Transitional Housing Program Misconduct TRO/RO
- School Violence Prevention TRO/RO
- Out-of-State Commission Subpoena
- Undertaking/Surety Bonds
- Request for Payment of Trust Funds
- Writs
- Notice of Appeal of Labor Commissioner
- Abstracts
- Warrants
- Settlement Conference Briefs (to be lodged)
- Confidential documents lodged conditionally under seal
- Interpleader actions pursuant to CC2924j

The following documents **may be filed in paper form**, unless the court expressly directs otherwise:

- Documents filed under seal or provisionally under seal pursuant to CRC 2.551 (although the motion to file under seal itself must be electronically filed)
- Exhibits to declarations that are real objects, i.e., construction materials, core samples, etc. or other documents, i.e. plans, manuals, etc., which otherwise may not be comprehensibly viewed in an electronic format may be filed in paper form

#### **DOCUMENTS DISPLAYED ON THE PUBLIC-FACING REGISTER OF ACTIONS**

Any documents submitted for eFiling (and accepted) will be filed and displayed on the San Diego Superior Court's public-facing Register of Actions with the exception of the following documents:

- CASp Inspection Report

- Confidential Cover Sheet False Claims Action
- Confidential Statement of Debtor's Social Security Number
- Financial Statement
- Request for Accommodations by Persons with Disabilities and Court's Response
- Defendant/Respondent Information for Order Appointing Attorney Under Service Members Civil Relief Act
- Request to Waive Court Fees
- Request to Waive Additional Court Fees

Documents not included in the list above, that are intended to be kept confidential, should NOT be eFiled with the court.